

FINANCIAL REGULATIONS

2007

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1 OVERVIEW

- 1.1 The Cabinet is, subject to Full Council, responsible for advising on the regulation and control of the finances of the Council.
- 1.2 These Financial Regulations provide the framework of financial control and standards necessary to achieve the proper administration of the Council's financial affairs and are designed to safeguard the interests of both the Council and its employees. These Regulations cover the Council's main activities, its Trading Organisations and Pension Funds, and partnerships where the Council acts as the lead authority or where it acts as the accountable body.
- 1.3 A key objective of these regulations is to ensure that the Authority provides services to its users and the community in accordance with Best Value legislation. The regulations are designed to support Strategic Directors in achieving this aim whilst working within a framework of the principles of Best Value. Under the former Compulsory Competitive Tendering (CCT) system, value for money was generally proven by following a tendering procedure and awarding the contract to the lowest tenderer. However, in addition to cost, Best Value requires that the principles of integration, quality, partnering, innovation, performance management, and customer focus are also taken into account as well as the achievement of corporate objectives such as sustainability and social cohesion.
- 1.4 All projects should be managed in accordance with the principles of good project management. Projects **over £250,000** should be managed and delivered using best practice Project Management techniques e.g. PRINCE2. Where significant risks have been identified, they should be included in the Corporate Risk Register and addressed in accordance with the Authority's Risk Management strategy.
- 1.5 The Strategic Director, Resources is, for the purpose of section 151 of the Local Government Act 1972, responsible for the proper administration of the Council's financial affairs and, subject to the Constitution and any resolutions of the Cabinet or the Full Council, may do all things necessary for the administration of the Council's financial affairs.
- 1.6 Where the Strategic Director, Resources considers that there is a likelihood of a significant overall overspending, or a significant overspending on a portfolio budget, a report will be taken to Council, in accordance with section 114 of the Local Government Finance Act 1988.
- 1.7 As the Council's financial and economic advisor, the Strategic Director, Resources will prepare a budget showing the sources of income and proposed expenditure in each financial year, for Cabinet to submit to Council for approval. The Strategic Director, Resources will also keep the Cabinet informed of the Council's overall financial performance, compared with the approved budget(s). The information required and the frequency of reporting will be determined by the Cabinet.

- 1.8 The Strategic Director, Resources, after consulting with the Assistant Chief Executive, may vary, waive or suspend any regulation. Requests to waive financial regulations should be submitted in accordance with the approved waiver request procedure.
- 1.9 Where reference is made in these regulations to specific officers, they may nominate other officers to act on their behalf provided they keep appropriate up-to-date written records of the nominated officers and the limits to their delegated powers.
- 1.10 Strategic Directors are responsible for ensuring that employees in their departments are aware of, and comply with these Financial Regulations and that failure to comply may result in disciplinary action.
- 1.11 Strategic Directors must consult the Strategic Director, Resources (as represented by Heads of Service, Departmental Budgeting and Accounting) on any matter which is liable to affect the finances of the Council before any provision or other commitment is incurred or before reporting to Cabinet. The Strategic Director, Resources has the right to be represented at meetings with partnerships or outside bodies where matters of major financial significance are to be discussed.
- 1.12 Each Strategic Director and each Cabinet Member is responsible for the observance of Financial Regulations and Codes of Procedures throughout all departments, portfolios and trading organisations under their control, and for compliance with the decision-making process defined in the Constitution.
- 1.13 The Strategic Director, Resources shall add any financial comments, as thought fit, to reports being submitted to a Cabinet Member, the Cabinet, Committee or Council regarding the financial consequences of any proposed action. These comments may include the sufficiency of the budget to finance the proposals being made or set out the action to be taken to make the necessary finance available. All reports to Portfolio Meetings, Cabinet Members, Committees, Cabinet meetings and Council meetings, will have a Strategic Director, Resources financial comment. These reports must be submitted to the Strategic Director, Resources or his/her representative, at least 5 working days before the distribution of papers.
- 1.14 There are statutory requirements relating to key decisions. A key decision is defined as an executive decision which is likely to:-
- a) result in the Authority incurring expenditure, or making savings which are significant having regard to the Authority's budget for the service or function to which the decision relates.
- or
- b) be significant in terms of its effects on communities living or working in an area comprising two or more wards or electoral divisions within the area of the Authority.

Where the Leader of the Council reasonably believes that a decision to be made at a meeting will be a key decision, the meeting must be held in public. For this Authority, the financial value of the term significant has been set as **£1 million**. These items must be included in the Forward Plan before any decisions are taken.

- 1.15 If there is a conflict between the Council's Financial Regulations and other specific County Council regulations or codes of procedure, these Financial Regulations shall prevail.
- 1.16 The Freedom of Information Act 2000 came fully into force on 1 January 2005. It requires the Council to meet new standards of openness and transparency with respect to access to all of the information it holds. The Council has developed an Information Management Policy which should be followed. Particular issues are also addressed in section 6 and section 9 of these regulations. Further guidance is available on the intranet and in the Contracts Manual.

2. FINANCIAL PLANNING AND BUDGETARY CONTROL

- 2.1 The Cabinet shall make recommendations regarding budgetary guidelines for approval by the Full Council not later than February of each year, having received a report from the Strategic Director, Resources on the robustness of the budget proposals and the adequacy of financial reserves in accordance with S25 of the Local Government Act 2003.
- 2.2 The Leader of the Council, in consultation with the Cabinet Member for Finance and Property shall, within the terms of these guidelines, submit to the Council a programme of capital expenditure and estimates of income and expenditure on revenue accounts for such future periods and in such form and by such date(s) as the Council requires, and shall make recommendations for the precept to be levied for the ensuing financial year.
- 2.3 Each Member of the Council must be provided with a copy of the budget proposals together with a statement by the Strategic Director, Resources of the effect on the Council's finances and the precept to be levied at least seven days before the Meeting of the Full Council at which such matters will be considered.
- 2.4 It is the duty of each Strategic Director, in consultation with the relevant Cabinet Member, to monitor and control the budgets approved for the year.
- 2.5 Amounts provided under each heading of the approved annual revenue estimates must not be diverted to other purposes by the Cabinet Member concerned except as allowed by Financial Regulations at para 3.4.
- 2.6 The inclusion of items in the approved revenue estimates constitutes authority to incur expenditure, subject to the regulations for procurement of Goods, Services and Works (section 9), except where the Council, Cabinet or Financial Regulations of the Council has placed a restriction on any item. Where items cannot be identified from the approved revenue estimates, authority for expenditure on those items must be obtained from the appropriate decision making body within the Council depending on the amount. Expenditure on special items may only be incurred subject to the regulations at para 3.3.
- 2.7 Where external funding is available to cover additional revenue expenditure, Strategic Directors must consult with the relevant Cabinet Member and the Cabinet Member for Finance and Property for additional expenditure **over £250,000**, and obtain the approval of Cabinet for additional expenditure **over £500,000**.
- 2.8 Where expenditure is required on items not included within the approved budget, and which cannot be funded within the regulations for virement (see para 3.4). Strategic Directors must obtain approval from Cabinet.
- 2.9 Capital expenditure is not authorised until the regulations set out in section 4 have been complied with.

- 2.10 Where a Cabinet Member wishes to take a course of action which has financial implications contrary to the advice provided by the Strategic Director, Resources and/or Head of Service, Departmental Budgeting and Accounting, the Strategic Director, Resources may submit a report to this effect, to the Cabinet.
- 2.11 Where a Cabinet Member makes a proposal which, in the opinion of the Strategic Director, Resources and/or the Chief Executive, constitutes a new policy or which affects, or may affect, the Council's finances, the Strategic Director, Resources and/or the Chief Executive may require that a report is first submitted to Cabinet.
- 2.12 The Strategic Director, Resources must submit a report to the Full Council on each year's final accounts as soon as practicable, and in accordance with the statutory Accounts and Audit Regulations.

3 REVENUE EXPENDITURE

3.1 Preparation of Revenue Budgets

- 3.1.1 Revenue budgets must be prepared within the Budget and Policy Framework and the resource allocation limits prescribed by the Council. (see Budget and Policy Framework Procedure Rules in Part 4, sub-part E of the Constitution).
- 3.1.2 Detailed annual revenue budgets must be prepared in accordance with all instructions on budgeting issued by the Strategic Director, Resources (represented by the Service Director - Finance and Trading). It is the responsibility of Strategic Directors to ensure that detailed budget preparation takes place, that the amounts included are realistic, and that there has been correct application of budget conventions and procedures for their service.
- 3.1.3 Where there is uncertainty about the proper approach to be adopted in preparing a budget, guidance should be sought from the Strategic Director, Resources (represented by the Service Director – Finance and Trading).
- 3.1.4 The Strategic Director, Resources will, during the year, seek approval from Cabinet for allocations from the General Contingency approved by Council.
- 3.1.5 Where external income arises from a set scale of charges, fees etc, the Strategic Director must review the level of fees at least once a year in consultation with the Strategic Director, Resources (represented by the Heads of Service, Departmental Budgeting and Accounting). Revised fees must be agreed by the relevant Cabinet Member.

3.2 Control of Revenue Budget

- 3.2.1 Strategic Directors and Cabinet Members are responsible for controlling expenditure within approved budgets. To assist them with this, virement of budget provision from one budget head to another may be permitted as described in section 3.4.
- 3.2.2 Variation between any budget head and actual expenditure or income which cannot be covered within the rules for virement must be reported to Cabinet by the Cabinet Member after consultation with the Department's Strategic Director and the Strategic Director, Resources.
- 3.2.3 Where new policies or significant variations to existing policies or practices are proposed, a report must be presented to Cabinet by the Cabinet Member or Strategic Director providing details of the financial implications of the proposed policies for the current year and two further years.
- 3.2.4 A Strategic Director's authority to incur expenditure, for which provision has been made in the detailed annual revenue budget and which is in accordance with Cabinet Member policies, is subject to the procurement regulations in section 9 and the conditions in 3.3 below.

3.3 Special Items

3.3.1 Use of Consultants, Individuals as Contractors and Special Advisors:

3.3.1.1 Unless prior approval has been obtained from Cabinet to engage consultants (e.g. as part of an approved capital programme), the following regulations apply in addition to the normal procurement rules. Strategic Directors may employ consultants, individuals as contractors or specialist advisors provided that there is sufficient budget provision and an annual report is made to the Cabinet Member on the use of this discretion.

3.3.1.2 If the estimated value of the contract is **over £50,000** prior approval must be obtained from the Chief Executive (represented by the Assistant Chief Executive) and the Strategic Director, Resources (represented by the Head of Service, Audit and Investments). Requests for approval must be submitted on the approved form. (N.B. regardless of value, all consultants must be procured in accordance with the procurement procedures set out in section 9.)

3.3.1.3 Where contracts need to be extended and the total value of the whole contract will **exceed £50,000**, further permission must be obtained from the Chief Executive (represented by the Assistant Chief Executive) and the Strategic Director, Resources (represented by the Head of Service, Audit and Investments) before the contract is extended.

3.3.1.4 When employing individuals as consultants, contractors or specialist advisors, Strategic Directors must determine whether the nature of their employment is 'Employed' or 'Self Employed' as set out in the guidance note IR56 issued by HM Revenue and Customs. The Authority has produced some guidance and a form to help with this assessment. If a Consultant or Contractor is deemed to be 'Employed' the Strategic Director must arrange for the Consultant or Contractor to be paid through the Authority's payroll.

3.3.2 Leases:

3.3.2.1 All leases or credit arrangements **over £6,000** which are not for Land and Buildings must be approved by the Strategic Director, Resources (represented by the Service Director - Finance and Trading) before they are entered into.

3.3.2.2 For leases of Land and Buildings the regulations at 20.7.1 must be followed.

3.3.3 Grants to External Bodies:

3.3.3.1 Subject to there being sufficient budget provision, grants and contributions to individuals or outside bodies may be authorised as follows:-

up to £2,500 p.a. by a Strategic Director in consultation with the relevant Cabinet Member;

£2,501 to £50,000 p.a. by the Cabinet Member;

over £50,000 p.a. by Cabinet;

This does not apply to student awards.

3.3.4 Loans to External Bodies:

3.3.4.1 All proposals for loans to individuals or outside bodies should be accompanied by an appropriate risk assessment. Loans to individuals or outside bodies may be authorised as follows:-

- loans **up to £200,000** for economic development or regeneration purposes must be approved by the appropriate Cabinet Member.
- all other loans **up to £200,000**, individually or cumulatively, must be approved by the Cabinet Member for Finance and Property
- all loans, individually or cumulatively **over £200,000** must be approved by Cabinet.

3.3.5 State Aid

3.3.5.1 State Aid is financial aid or other advantage to business from a Member State of the EU which meets all the criteria in Article 87(1) of the EC Treaty. State Aid, which could distort competition and affect trade by favouring certain undertakings or the production of certain goods, is incompatible with the common market unless there is special provision for it within the EC Treaty (usually through certain types of block exemption).

3.3.5.2 There are 4 characteristics of State Aid:

- **It is granted through the State or through State resources** (including public funds administered through Local Authorities);
- **It favours certain undertakings or production of certain goods** – i.e. by conferring an advantage to an entity engaged in economic activity (which can include voluntary and non profit making public or private bodies when they engage in activities which have commercial competitors);
- **It distorts or threatens to distort competition** by actually or potentially strengthening the position of the recipient in relation to competitors. Virtually all selective aid will have this potential regardless of the scale of the potential distortion;
- **It affects trade between Member States.** Most products or services are traded between Member States therefore almost any selective aid for business activities is capable of affecting trade between States, even if the business itself does not trade directly with Member States.

3.3.5.3 State Aid can take many forms including grants, subsidies, preferential interest rates, loans with preferential terms, acquisition of land either gratuitously or on favourable terms, provision of goods or services on favourable terms, reimbursement of costs in the event of success, capital transfers and many other actions. Some forms of public private partnerships and contracts are not open to competitive tendering.

3.3.5.4 The rules on State Aid are lengthy and complex and therefore if there is any concern about activities or proposals possibly contravening these rules then specific advice on the circumstances should be sought from Legal Services. See the state aid website

3.4 Virement

3.4.1 The transfer of budget provision from one budget head to another is permitted as follows:-

up to £50,000 (£100,000 within the Highways Maintenance budget) within a Cabinet Member's revenue budget - by a Strategic Director and the Strategic Director, Resources (represented by Heads of Service, Departmental Budgeting and Accounting)

up to £200,000 within a Cabinet Member's revenue budget – by the Cabinet Member

up to £200,000 between the revenue budgets of two or more Cabinet Members - by the relevant Cabinet Members acting unanimously

over £200,000 within or between the revenue budgets of Cabinet Members - by Cabinet.

3.4.2 Where the Strategic Director, Resources (represented by Heads of Service, Departmental Budgeting and Accounting) considers that any proposed virement causes a variation to existing policy, he/she may require the Strategic Director to present a report to Cabinet setting out the reasons for the virement.

3.4.3 A Strategic Director may incur expenditure which is essential to meet any immediate needs created by a sudden emergency (see 9.5.2d), subject to this action being reported immediately to the Chief Executive and the Strategic Director, Resources (represented by the Service Director - Finance and Trading).

3.4.4 When a sudden emergency arises, Strategic Directors must keep a separate record of the essential expenditure incurred in connection with the emergency until advised by the Service Director - Finance and Trading that separate records are no longer required.

3.5 Monitoring of the Revenue Budget

3.5.1 Strategic Directors must have in place arrangements to monitor their budgets on a monthly basis. Summary statements must be presented to the Strategic Director, Resources (represented by the Service Director - Finance and Trading) on a quarterly basis, and more frequently if requested. The coverage of these summary statements must be agreed with the Strategic Director, Resources. Budget Monitoring reports should be presented to Cabinet on a quarterly basis by the Cabinet Member for Finance and Property.

- 3.5.2 Strategic Directors will report regularly to their Cabinet Member regarding the actual income and expenditure compared with the portfolio budget. Explanations of significant variations must be made available to the Strategic Director, Resources (represented by the Service Director - Finance and Trading) when requested, together with proposals for avoiding any continuing budget problems.
- 3.5.3 Each Strategic Director, in conjunction with the Strategic Director, Resources (represented by Heads of Service, Departmental Budgeting and Accounting), must prepare an annual report for the Cabinet Member comparing actual expenditure for the year with the revenue budget. Explanations for significant variations must be provided by the Strategic Director.
- 3.5.4 The Cabinet Member for Finance and Property must prepare an annual report for Cabinet, for all budgets, comparing the actual expenditure for the year with the agreed revised estimate for the year. Explanations of significant variations must be provided by the relevant Cabinet Member.
- 3.5.5 Budgets may be carried forward to the following year provided the likelihood of an underspend is identified by the end of December in the budget year. Where underspends are identified later in the year, Cabinet will consider and recommend the amount that should accrue to County Fund balances and the amount that can be carried forward within a portfolio to the next financial year. Approval for the amounts carried forward will be given by Council.
- 3.5.6 Other reserves may be created from budget underspending for specific purposes, subject to consultation with the Cabinet Member for Finance and Property and being reported to Cabinet and Council
- 3.5.7 The annual surpluses and deficits of Trading Organisations will be carried forward in an 'Earmarked Reserve'. The level of these reserves will be kept under review by the Strategic Director, Resources and reported annually to Cabinet and Council.

4. CAPITAL EXPENDITURE AND OTHER MAJOR PROJECTS

4.1 Management of Projects

4.1.1 All projects will be managed using a best practice project management methodology e.g. PRINCE2 by suitably experienced project managers with project reviews at key milestones which meet Gateway Review standards.

4.2 Inclusion of schemes in the Capital Programme

4.2.1 Schemes can be added to the Capital Programme by:-

- a) the Annual Review Process that culminates in the approval of the County Council's budget each February, OR
- b) decisions taken during the year on an ad-hoc basis where the schemes are fully funded from external sources OR
- c) decisions taken during the year on an ad-hoc basis where additional County Council funds are required.

The processes are shown schematically in the attached [decision tree](#).

4.2.2 All proposed schemes, or programmes of work, should include an options appraisal which has been carried out before detailed design work begins, and, where appropriate, the full lifecycle costs of the investment and the impact on future budgets.

4.2.3 The options appraisal report should include:-

- a) how each scheme, or programme of work, relates to the approved Council objectives and what other options have been considered, what consultation has been undertaken and what the anticipated outcomes are;
- b) the estimated capital costs;
- c) the estimated revenue costs for each of the first three years of the scheme or programme of work, including the eventual revenue costs for a full year of operating the scheme or programme of work.

4.2.4 All proposals for capital expenditure that require additional resources to be found by the County Council should be considered initially by the Corporate Asset Management Group (CAMG) who will advise on the relative priority of future capital schemes, in accordance with the agreed prioritisation criteria within the Capital Strategy. Approval must then be obtained as follows:-

- a) for schemes being considered through the Annual Review process, CAMG will make recommendations to the Member Reference Group who, in turn, will make recommendations to the Strategic Management Board (SMB). SMB will then make their recommendations to Cabinet for approval.
- b) for schemes arising during the budget year on an ad-hoc basis, CAMG will consider and advise the Member Reference Group who, in turn, will advise and seek approval from the Cabinet Member for Finance and Property.

4.2.5 The outcome of the Annual Review process is the capital programme approved by Council which includes the schemes approved for the forthcoming financial year and the two following years.

4.2.6 Where proposals are made for additional schemes during the year, decisions can be taken as follows:-

- a) schemes **up to £250,000** by the Cabinet Member for Finance and Property.
- b) schemes **over £250,000 and up to £2 million** by Cabinet.
- c) schemes **over £2 million** by Council.

4.2.7 After approvals have been obtained under 4.2.4 or 4.2.6 above, Latest Estimated Cost reports should be prepared and presented (see para 4.5) before tenders are sought.

4.2.8 All schemes with an estimated cost **over £7.5 million** are subject to the following additional requirements:-

- a) a report on alternative design proposals is taken to Cabinet;
- b) no detailed design work is undertaken prior to the report in 4.2.3(a) being approved;

4.2.9 Where major projects are being procured through a 'Private Finance Initiative' (PFI) or 'Public Private Partnership' (PPP), an options appraisal report should be prepared and approval must be obtained from Council before bids are invited.

4.3 Content of Bids for Capital Expenditure

4.3.1 All bids for capital expenditure must be prepared by Strategic Directors in the form laid down by the Strategic Director, Resources (represented by the Service Director - Finance and Trading).

4.3.2 The advice of the appropriate technical officer must always be sought before a scheme is included in any capital programme. The appropriate technical officers are shown below:-

Area of Activity	Technical Officer
Building, Construction and associated works	Service Director - Property
Civil Engineering works	Strategic Director, Communities
Computer technology	Service Director - ICT
Expenditure over £100,000 relating to the management of Council Land, Building and Property	Service Director - Property
Change of use of land, buildings or property	Service Director - Property
New or replacement land, buildings or property.	Service Director - Property

4.3.3 Construction schemes should not normally be included in the first year of a capital programme unless the following criteria have been considered and the risks evaluated:-

- a) purchase, lease or lease option of the land or property has been completed. In the case of transportation and land reclamation projects, a right of entry should have been obtained;
- b) outline planning permission should have been obtained, where appropriate, especially if the development involves a change of use or is a new development;
- c) the sources of funding, including any grants or contributions from outside organisations, have been finalised - except for land reclamation projects where grant notification is not normally received until the year of the project;
- d) the service department has prepared a detailed brief for the project which has been agreed with the Architectural and Engineering team(s) who will carry out the design;
- e) the Service Director - Property has confirmed that the proposal complies with the Corporate Property Plan;
- f) the Strategic Director, Communities and the Service Director - Property have made a proper assessment of the time-scale required for the project;
- g) where existing property is affected by the proposed development, the service department has agreed proposals for dealing with staff or clients who might be temporarily displaced during construction; and
- h) relevant sustainability issues.

4.3.4 The capital programme for each portfolio must be prepared within the block allocation and individual scheme approvals approved by Cabinet. All costs should be at estimated out-turn prices, unless otherwise determined by the Strategic Director, Resources (represented by the Service Director - Finance and Trading).

4.3.5 The revenue costs of all schemes in the capital programme must be assessed each year. The staffing, lifecycle maintenance and other running costs must be included in the portfolio revenue budget. The financing costs for expenditure funded by borrowing or leasing will be calculated by the Strategic Director, Resources (represented by the Service Director - Finance and Trading) and included within the overall revenue budget.

4.4 Feasibility Studies

4.4.1 The appropriate technical officer can carry out preparatory work on any scheme included in the approved capital programme. The costs of this work must be charged to that scheme. If for any reason the scheme does not go ahead, then the costs of preparatory work undertaken must be charged to the revenue budget of the Cabinet Member concerned, which will need to make available sufficient budget cover for this. In practice, this means that the technical officer should not carry out preparatory work unless an undertaking has been secured for the funding of any abortive costs from the service department.

4.4.2 Design work must not take place on schemes which are not included within the approved capital programme unless written approval has been obtained from the Chief Executive and the Strategic Director, Resources (represented by the Service Director - Finance and Trading).

4.4.3 The appropriate technical officer can carry out feasibility work on any other scheme not in the approved capital programme subject to:-

- a) the service Strategic Director agreeing to the cost being met from its revenue budget for the year, and
- b) prior approval from the Strategic Director, Resources (represented by the Service Director - Finance and Trading) has been obtained if the estimated cost of the feasibility study is **over £25,000**.

4.5 Reports on "Latest Estimated Costs" of Proposed Schemes

4.5.1 Strategic Directors must take a report to Cabinet setting out the latest estimated costs of all proposed capital schemes where the capital cost is **over £1 million**. The report must be made after detailed design work has been completed but before tenders are invited and should contain:-

Capital costs analysed into:-

- a) Land acquisition;
- b) Construction costs;
- c) Acquisition of plant, equipment and furniture;
- d) Professional fees and project management costs;
- e) Any other relevant costs.

Revenue costs identified and analysed into:-

- a) Staffing costs;
- b) Other running costs;
- c) Financing costs.
- d) Lifecycle maintenance costs.

In addition to total costs, the phasing of these costs over financial years should also be shown. If the costs exceed the existing capital programme provision for that scheme, the report must contain a statement on how these extra costs can be contained within the approved total capital programme or, if further capital funds are required, approval to increase the capital programme must be sought from the appropriate body within the Council.

4.5.2 For all schemes in the capital programme estimated to cost **less than £1 million**, the Service Strategic Director, in conjunction with the appropriate technical officer, must:-

- a) notify the Strategic Director, Resources (represented by Heads of Service, Departmental Budgeting and Accounting) of the latest estimated cost of the scheme. If the costs exceed the capital programme provision the Strategic Director must also show how it is proposed to contain the extra costs.

- b) ensure the decision to proceed is recorded in the Decision Log.

4.6 Budgetary approval prior to Contract Award

- 4.6.1 Where the preferred tender exceeds the Latest Estimated Cost (LEC) or Capital Programme estimate, Strategic Directors must submit a revised LEC report and obtain all necessary approvals for the additional expenditure needed before accepting the tender.
- 4.6.2 Each Strategic Director must keep a record of the difference between accepted tenders and capital programme provisions.
- 4.6.3 The accepted tender cost becomes the figure included in the capital programme. If this gives rise to a variation in professional fees, the Strategic Director, Resources (represented by Heads of Service, Departmental Budgeting and Accounting) should be informed so that an amendment can be made to the capital programme.
- 4.6.4 The award of contracts must comply with the procedures for the procurement of Goods, Services and Works set out in section 9 and the guidance in the Contracts Manual.

4.7 Post-Project Evaluations

- 4.7.1 For completed projects, post-project evaluations must be carried out by the Corporate Asset Management Group and a report submitted to the portfolio meeting for Finance and Property as follows:-
 - a) projects **up to £5 million** - for a sample of projects selected by Corporate Asset Management Group.
 - b) projects **over £5 million** - all projects.
- 4.7.2 The post project evaluation should normally address the following matters:-
 - a) outturn costs vs original cost estimates and the reasons for any cost increases.
 - b) breakdown of the professional fees incurred.
 - c) actual timetable achieved vs original planned timetable and the reasons for slippage and delays.
 - d) overall project outcomes and quality of project management.
 - e) achievement of service objectives and benefits.
 - f) lessons to be learned for future projects.
- 4.7.3 Technical officers should carry out a post project review for all their projects and report to the Strategic Director and, where different, the client, regarding the achievement of projected benefits and lessons to be learned for future projects.

4.8 Capital Financing

4.8.1 The Strategic Director, Resources (represented by the Service Director - Finance and Trading) in consultation with the Cabinet Member, Finance and Property, will make arrangements for the financing of capital expenditure in accordance with the CIPFA 'Prudential Code for Capital Finance' and the annual budget report approved by Council.

4.8.2 Decisions on leasing must be made by the Strategic Director, Resources (represented by the Service Director - Finance and Trading), who will also determine whether proposed leases are 'finance leases' or 'operating leases'.

4.9 Capital Loans

4.9.1 All proposals for loans to individuals or outside bodies should be accompanied by an appropriate risk assessment. Loans to individuals or outside bodies may be authorised as follows:-

- all loans **up to £200,000** for economic development or regeneration purposes must be approved by the appropriate Cabinet Member.
- all other loans **up to £200,000**, individually or cumulatively, must be approved by the Cabinet Member for Finance and Property.
- all loans, individually or cumulatively, **over £200,000** must be approved by Cabinet.

4.10 Investment in Equities

4.10.1 Investment in equity stock may be authorised as follows:-

- investments **up to £250,000** for economic development or regeneration purposes must be approved by the appropriate Cabinet Member.
- all other investments **up to £250,000**, must be approved by the Cabinet Member for Finance and Property.
- all investments, individually or cumulatively **over £250,000** must be approved by Cabinet.

These restrictions do not apply to pension fund investments.

5. ACCOUNTING SYSTEMS

- 5.1 All staff must comply with accounting instructions issued from time to time by the Strategic Director, Resources (represented by the Service Director - Finance and Trading). Accounting systems should provide information that is useful for both stewardship and management responsibilities. Any new accounting systems and retention of associated records, or records of assets and liabilities and any changes to such systems must be approved by the Strategic Director, Resources (represented jointly by the Service Director - Finance and Trading and the Head of Service, Audit and Investments).
- 5.2 The Council accepts the CIPFA Accounting Codes of Practice and the supporting guidance statements. Standards of accounting must accord with these codes of best practice.
- 5.3 Strategic Directors and Cabinet Members are responsible for ensuring that all opportunities to obtain Government grants and other external funding towards the expenditure of their Department and Portfolio are exploited.
- 5.4 All interim or final claims in respect of Government grant and reimbursements or contributions from outside bodies, other than those recovered by Sundry Debtor accounts, must be signed by the Strategic Director, Resources (represented by Heads of Service, Departmental Budgeting and Accounting). Strategic Directors must supply the Strategic Director, Resources with such information as the Strategic Director, Resources considers necessary to enable successful claims to be made promptly to ensure a satisfactory cash flow is achieved. The Strategic Director, Resources will provide guidance on the information required to support grant claims.
- 5.5 Strategic Directors are responsible for ensuring that appropriate systems and procedures are in place for the proper transfer of all financial records and assets, e.g. stocks, stores, imprest accounts, inventories, valuables, cash, etc., when an officer ceases to be responsible for these items.
- 5.6 The accounting control systems must include:-
- a) measures to ensure that the financial transactions of the Authority are recorded as soon as reasonably practicable and as accurately as reasonably possible,
 - b) measures to enable the prevention and detection of inaccuracies and fraud, and the ability to reconstitute any lost records promptly and at reasonable cost,
 - c) identification of the duties of officers dealing with financial transactions and division of responsibilities of those officers in relation to significant transactions;
- 5.7 At the end of each financial year, Strategic Directors must notify the Strategic Director, Resources (represented by Heads of Service, Departmental Budgeting and Accounting) of all outstanding expenditure relating to the previous financial year in such detail and by such date as may be required by the Strategic Director, Resources (represented by the Service Director - Finance and Trading) so that accounts can be prepared to meet statutory reporting requirements.

6 MANAGEMENT, RETENTION, SECURITY AND DISPOSAL OF RECORDS

6.1 General

6.1.1 All Nottinghamshire County Council records, whether electronic or paper-based, are subject to the Authority's Information Management Policy which establishes key principles for the management, retention, security and disposal of these records. This policy is produced and maintained by the Corporate Information Manager.

6.1.2 Strategic Directors are responsible for providing suitable storage for Departmental records and for ensuring compliance with corporate policies governing the management, retention, security and disposal of records within their Department.

6.1.3 All retained records must be held in a manner which allows speedy and efficient retrieval of information, having due regard for the appropriate security requirements.

6.2 Retention of Records

6.2.1 All business records should be retained in accordance with the retention schedules published by the Corporate Information Manager and appended to the Corporate Information Policy. Further guidance on the retention of records regarding contracts and tenders is given at section 9.13.

6.2.2 Where uncertainty exists about individual documents or records, the nominated Departmental Information Officers should be consulted for guidance. Where corporate retention guidance does not address local practices, officers should seek clarification from the Corporate Information Manager.

6.3 Disposal of Records

6.3.1 All records are subject to disposal policy standards which include the need to obtain prior authorisation and to maintain a record of the disposal. Officers seeking to dispose of business records must complete a records destruction form and follow the disposal guidance contained in the Information Management Policy framework published on the Authority's intranet.

6.4 Projects in receipt of European Grant Aid:

6.4.1 The European Commission has strict rules governing document retention periods and the format in which documents must be kept. All supporting documents for projects in receipt of European Grant Aid must be kept for the minimum retention period, and in the format, specified by the European Programme of which the project is part. Therefore, it is essential to check with the Managing Authority for the relevant Programme (e.g. the European Commission, GOEM, EMDA) to confirm both the allowable format of documents to be retained and the retention period.

6.4.2 Before any original supporting documentation is destroyed, it is essential to confirm with the Managing Authority that the retention requirements have not been extended or changed.

7. ASSETS

Assets include land and buildings (see section 20) stocks and stores (see 7.1 below) cash, equipment and furniture (see 7.2 below) and electronic data (see section 19).

7.1 Stocks and Stores

- 7.1.1 Strategic Directors are responsible for ensuring that appropriate systems and procedures are in place for the safe custody and physical control of the stocks and stores in their Department. They must arrange for periodic stocktaking by an independent person to ensure that all items are checked at least once per annum or at such other frequency as the Strategic Director, Resources (represented by the Head of Service, Audit and Investments) may agree. Test checks should be carried out from time to time.
- 7.1.2 Records relating to assets and the method and frequency of stores and inventory checks will be determined by the Strategic Director, Resources (represented by the Head of Service, Audit and Investments).
- 7.1.3 Departments should not hold excessive stocks and Strategic Directors must ensure that a periodic review of stock turnover and stock levels of all items is undertaken and that action is taken to dispose of excessive or obsolete stocks.
- 7.1.4 Strategic Directors must notify the Strategic Director, Resources (represented by the Service Director - Finance and Trading) each year of the value of stock held by their Department as at 31st March and must supply such other information relating to stocks and stores as may be required by the Strategic Director, Resources (represented by the Head of Service, Audit and Investments).
- 7.1.5 Discrepancies revealed at a stock taking may be adjusted by the Strategic Director provided that it is **under £1,000** in aggregate. Discrepancies **over £1,000** must be reported to the Strategic Director, Resources (represented by Heads of Service, Departmental Budgeting and Accounting) who may authorise the necessary adjustment or refer any item to Internal Audit who, in turn may report to Cabinet.
- 7.1.6 Surplus stocks, stores or materials must be disposed of in accordance with the procedures below:-
- a) items estimated to realise **£500 or less** – at the Strategic Directors' discretion;
 - b) items estimated to realise **between £500 and £10,000** - competitive quotations must be sought;
 - c) items estimated to realise **more than £10,000** – an appropriate number of tenders must be obtained (and retained) to demonstrate that best value has been obtained from the sale of the assets.

7.2 Cash, Equipment and Furniture

7.2.1 Strategic Directors are responsible for maintaining appropriate security for all cash, furniture and equipment etc. under their control.

7.2.2 Money held at premises must be placed in a cash box which must be kept locked and put in a secure place e.g. a safe - if provided.

7.2.3 Safes must be kept locked and the key removed. Keys to safes, strong rooms and similar locked areas are to be stored securely at all times. The loss of such keys must be reported to the Strategic Director, Resources (represented by Heads of Service, Departmental Budgeting and Accounting) immediately. Master keys and spare safe keys should be stored securely at a separate location.

7.2.4 Where several officers use the same safe, each officer must use a separate lockable cash box for the monies they are responsible for.

7.3 Protection of Private Property

7.3.1 Where an officer assumes responsibility for moveable property belonging to a private person, he/she must ensure that a formal itemised inventory is prepared promptly in the presence of two officers who must sign and date the inventory to certify its accuracy. The property must be held securely.

7.3.2 All valuables such as jewellery, watches and other small articles of a similar nature and documents of title must be kept in safe custody.

7.3.3 All reasonable steps must be taken to return the private property to its rightful owner. Where a significant cost has been incurred by the Council in providing safe custody, the cost should be recovered before the property is returned and an official receipt provided for monies received.

7.4 Disposal of Assets

7.4.1 Where land or buildings are concerned, the Code of Procedures for the Disposal of Land and Buildings must be complied with (see 20.3).

7.4.2 Where ICT equipment is concerned, disposal must comply with the ICT disposal procedures (see 19.10).

7.4.3 Before disposing of an asset, officers should consult with the Strategic Director, Resources (represented by the Head of Service, Procurement and Trading) and must satisfy themselves that the asset has not been leased and cannot be economically re-used elsewhere in the Authority.

7.4.4 Surplus assets must be disposed of in accordance with the procedures below:-

- a) items estimated to realise **less than £500** – at the Strategic Directors' discretion;
- b) items estimated to realise **between £500 and £10,000** - competitive quotations must be sought;

- c) items estimated to realise **more than £10,000** - an appropriate number of tenders must be obtained (and retained) to demonstrate that best value has been obtained from the sale of the assets .

7.4.5 The Head of Service, Procurement and Trading will advise on the method of disposal to ensure that the most advantageous price is obtained. This will be subject to statutory requirements and any specific County Council policies.

7.4.6 Assets which have been sold may be released to the purchaser where payment has been made by cheque (covered by a valid guarantee card), debit card, credit card or by cash (see anti money-laundering measures at para 11.1.1) . Where payment is made by other means, the assets should not be released to the purchaser until the Strategic Director, Resources (represented by the Service Director - Finance and Trading) confirms that monies have been deposited in the Council's bank account.

7.5 Inventories

7.5.1 Inventories of the Council's property (as prescribed by the Head of Service, Audit and Investments) must be prepared and kept up-to-date by each Strategic Director (see the guidance on the creation and maintenance of inventories).

7.5.2 Inventories must be in a form agreed by the Strategic Director, Resources (represented by the Head of Service, Audit and Investments) and the Strategic Director must arrange for the inventory to be checked with the physical assets at least annually and whenever an officer ceases to be the responsible officer.

7.5.3 An annual list of inventory items to be written-off must be submitted to the Strategic Director who may authorise the write-off of those items that have come to the end of their useful life due to fair wear and tear.

7.5.4 All other items for write-off must be reported by the Strategic Director to the Strategic Director, Resources (represented by Heads of Service, Departmental Budgeting and Accounting) who may authorise the write-off, inform Internal Audit and/or refer any item s/he considers appropriate to the Cabinet.

7.5.5 The Council's property must not be removed from its usual location or used for unofficial purposes except with the express permission of the line manager.

8. SALARIES, WAGES AND PENSIONS

- 8.1 The payment of salaries, wages, pensions or other emoluments will be made only by the Strategic Director, Resources (represented by the Service Head - Employee Services). Each Strategic Director must notify the Strategic Director, Resources (represented by the Service Head - Employee Services) as soon as possible, and in the form prescribed, of all matters affecting an officer's pay. In particular this includes:-
- a) all appointments, resignations, dismissals, suspensions, secondments and transfers;
 - b) absences for sickness or other reason, apart from approved leave;
 - c) changes in remuneration, other than normal increments and pay awards and agreements of general application;
 - d) information necessary to maintain records of service for pension purposes, and other statutory requirements such as income tax and national insurance.
- 8.2 Appointments of all employees must be made in accordance with appropriate conditions of service and any approved establishments or employment procedure rules.
- 8.3 All time records or other pay input documents must be in a form prescribed or approved by the Strategic Director, Resources (represented by the Service Head - Employee Services) and must be certified by the Strategic Director or his/her nominee. Strategic Directors must formally nominate the officers authorised to approve pay input documents and maintain a list for reference. Officers authorised to approve pay input documents must comply with the relevant Employment Procedure Rules as set out in the Constitution.
- 8.4 Overtime claims must be submitted promptly to the Strategic Director, Resources. Where these claims are over three months in arrears they will only be paid with the approval of the Strategic Director, Resources (represented by the Service Director - Human Resources).
- 8.5 No person should be paid by the Council unless they have a valid contract of service with the Council, except where prior approval has been given by the Cabinet Member for Finance and Property, or under delegated powers by the Strategic Director, Resources (represented by the Service Director - Human Resources).
- 8.6 For income tax purposes, temporary staff who are paid directly by the Council, whether describing themselves as self-employed or not, shall be treated as employees unless they provide acceptable documentary evidence from HM Revenue and Customs that they may be paid without deduction of income tax and national insurance – see para 3.3.1.4.

9. PROCUREMENT OF GOODS, SERVICES AND WORKS

9.1 General

9.1.1 All procurement undertaken by the Authority, of whatever value, is subject to the EU Public Procurement Regime and to the obligations entered into by the UK upon accession to the EU. For the avoidance of doubt, where there is any conflict between UK and EU legislation and these regulations, UK and EU law shall prevail.

9.1.2 These procurement regulations are intended to ensure the following objectives are met:-

Probity and Openness: Honesty, integrity and openness in all dealings and the avoidance of corruption.

Best Value: The optimum outcome for the Authority and the residents of Nottinghamshire.

Equal Treatment of Suppliers: Fair and equitable treatment for all potential suppliers.

Officer Protection: Avoidance of situations which may lead to accusations of officer impropriety.

9.1.3 To achieve this, the Authority has developed a Corporate Procurement Strategy and these regulations are designed to support this strategy.

9.1.4 The procurement of goods, services and works, including the employment of consultants and specialist advisors (see 3.3.1), must comply with these regulations and the guidance provided in the Contracts Manual. The guiding principle of this Code is that Strategic Directors must, in all cases, comply with the principles of the Best Value legislation using a combination of tendering, partnering and other innovative procurement methods. All procurement, contracts and related matters must comply with any legislation.

9.1.5 Members and officers of the Council who have a personal or prejudicial* interest in a contract, or other procurement decision, which they could influence, must ensure they comply, as appropriate, with the Code of Conduct for Members or Code of Conduct for Officers set out in part 5 of the Constitution and shall not be supplied with or given access to any tender documents, contracts or other relevant related information without the authority of the Assistant Chief Executive. (* prejudicial has the same meaning here as in the 'Members Code of Conduct' which is set out in the Constitution).

9.2 Partnerships and Procurement

9.2.1 Working in partnership with external organisations is widespread across the Authority. All partnership agreements should be subject to appropriate contractual arrangements which have been approved by the Assistant Chief Executive.

- 9.2.2 Partnerships are established for varying reasons and can take many different forms. It is important to ensure that the reasons for entering into a partnership are clear and remain under review. Appropriate accounting and audit arrangements must be put in place and the Authority's policy guidance on partnerships and work for outside bodies should be followed.
- 9.2.3 Partners must formally acknowledge and accept their respective roles and responsibilities within the partnership before the project commences, having assessed the risks and resources required to deliver the project.
- 9.2.4 The Council may procure goods, services and works through collaborative procurement exercises or joint commissioning in partnership with other public sector organisations. Where such joint procurement takes place the guidance in this section must be followed. In addition, the authorities involved in the exercise must decide which of them is to act as the lead authority for the purposes of the particular service, supplies or works being commissioned and the procurement procedures of the lead authority must be followed in the joint tendering exercise.
- 9.2.5 Where the County Council acts as lead authority it must carefully assess the risks involved, ensure that it does not take on liabilities of other public bodies by acting as lead and must follow any procedural safeguards as advised by Legal Services to protect the Council's position.
- 9.2.6 Goods, services and works must be procured through corporate procurement arrangements wherever they exist. Strategic Directors must contact the Corporate Procurement Unit (CPU) to enquire whether such arrangements exist before commencing a new procurement exercise. When these arrangements are used, there is no requirement for Strategic Directors to obtain further tenders or quotations.
- 9.2.7 Where a Council department provides goods, services or works of a particular kind, and can demonstrate that it provides value for money, that department must be given the opportunity to provide the required goods, services or works. If the goods, services or works are obtained from in-house sources, there is no requirement to obtain quotations and tenders. Where external suppliers have been used to obtain goods, services or works that are available from in-house providers, the reasons for not using the in-house provider should be retained on file.
- 9.2.8 Where in-house provision for goods, services or works exists, the decision of whether or not to expose this provision to alternative procurement arrangements, in accordance with the Authority's Procurement Strategy, should be reviewed periodically.

9.3 Use of External Suppliers

9.3.1 The Council's Corporate Procurement Unit (CPU) shall be notified of all procurement contracts and shall advise on areas for procurement efficiency to be achieved through central procurement arrangements, including framework agreements, partnerships and collaborative procurement. Contracts may be procured using arrangements put in place by Central Purchasing Bodies (such as OGC buying solutions, SCat, GCat, etc.) provided that certain safeguards are followed to minimise the risk to the Council. Guidance can be found in the Contracts Manual.

9.3.2 Where goods, services or works are NOT obtained through the Corporate Procurement Unit or an existing approved framework agreement, partnership or in-house provider, the procedure to be followed is dependent on whether the requirement is for 'Supplies and Services' or 'Works' and the estimated total value of the purchase over the full duration of the order or contract.

The current thresholds and a link to the procurement rules are set out in the table below, however, valuation of contracts is not always straightforward. The legislation requires the aggregation of contracts having similar characteristics within a particular period. This applies to all Council contracts of that type which exceed the threshold even if the total amount purchased is through lots of small contracts. (N.B. it is the Council's total purchases that count and not just each Department's total purchases). Large contracts must not be split up to avoid applying the rules. Further guidance on these rules is available in the Contracts Manual.

A. CONTRACTS FOR SUPPLIES AND SERVICES	
Estimated Total Contract Value	Minimum Requirements
Up to £1,000	Quotations to be sought if deemed appropriate by the Strategic Director or his/her nominee. <i>Details of the suppliers approached and prices quoted to be kept on file.</i>
£1,001 to £10,000	Quotations must be obtained from more than one supplier. <i>Details of the suppliers approached and prices quoted to be kept on file.</i>
£10,001 to £25,000	Three written competitive quotations must be obtained. <i>Details of all quotations sought and received to be kept on file.</i>
£25,001 to £50,000	Three tenders must be invited. <i>Details of all tenders sought and received to be kept on file.</i>
£50,001 to EU threshold* for Supplies & Services (£144,371 as at March 2007)	Five tenders must be invited. <i>Details of all tenders sought and received to be kept on file.</i>

Above EU threshold* for Supplies & Services	EU procurement rules must be complied with. <i>Details of all tenders sought and received to be kept on file.</i>
B. CONTRACTS FOR WORKS	
Estimated Total Contract Value	Minimum Requirements
Up to £10,000	Prices must be obtained from more than one supplier. <i>Details of the suppliers approached and prices quoted to be kept on file.</i>
£10,001 to £25,000	Three written competitive quotations must be obtained. <i>Details of all quotations sought and received to be kept on file.</i>
£25,001 to £250,000	Three tenders must be invited. <i>Details of all tenders sought and received to be kept on file.</i>
£250,001 to EU threshold* for Works (£3,611,319 as at March 2007)	Five tenders must be invited. <i>Details of all tenders sought and received to be kept on file.</i>
Above EU threshold* for Works	EU procurement rules must be complied with. <i>Details of all tenders sought and received to be kept on file.</i>

**N.B. The value of EU thresholds is published by OGC at www.ogc.gov.uk
For EU procurement thresholds, the County Council is categorised as
'Other public sector contracting authorities'
Further guidance can be found in the Contracts Manual*

- 9.3.3 Except in cases of emergency (see 9.5.2d), no work shall be carried out or goods, materials or services ordered or consultant appointed unless there is adequate budget available.
- 9.3.4 For goods, services or works valued **up to £50,000** an official order should be raised before they are ordered - subject to the provisions set out in section 9.11.
- 9.3.5 For goods, services or materials where the total value is **over £50,000**, no work may be commenced on site or goods ordered, until a formal contract (and a completed bond if appropriate - see section 9.12) approved by Legal Services, has been duly executed by the contractor and returned to the Council - subject to the provisions set out in section 9.11.
- 9.3.6 No work shall be carried out, or goods, materials or services ordered until the relevant client Strategic Director, where appropriate, has been consulted. Where the procurement is delegated or sub-contracted to an appropriate technical officer, the responsibility for complying with these procedures is assumed by that officer. All contracts must conform with any directions issued by the Assistant Chief Executive.

9.3.7 Where regular use of external contractors is envisaged, suitable framework or partnership arrangements should be established, using appropriate tendering procedures, to minimise the need to obtain quotations or tenders. The use of contractors must be in accordance with the terms of the framework agreement.

9.3.8 Where ICT equipment, software and services are to be purchased, the rules in section 19 must be complied with.

9.3.9 Where it is decided that a pilot scheme is required to test a particular product, services or works (e.g. due to the existence of a new funding stream or new technological developments that are best assessed through a pilot exercise) then the pilot scheme should be established in accordance with the rules on tendering in this section 9.

9.3.10 If the specification for any tender is developed by or in conjunction with any consultant or supplier, then that consultant or supplier shall be excluded from a future tendering exercise for those services, supplies or works. It is important that no supplier has an unfair advantage over others by having an opportunity to develop the specification for the tender for which it will later be bidding. This does not prohibit the Council from openly consulting with industry to develop its specification and does not prohibit the Competitive Dialogue procedure permitted under the EU procurement rules.

9.4 Use of Electronic Procurement Systems

9.4.1 The use of 'e-procurement' methods, such as 'e-auctions' or 'e-tendering' and dynamic purchasing systems to obtain prices is permissible provided regulation 21 of the Public Contracts Regulations 2006 AND the Authority's procedures for e-procurement are complied with. The Authority's procedures shall be determined jointly by Legal Services and Internal Audit.

9.5 Selection of Tenderers

9.5.1 Contractors should be selected in accordance with the guidance provided in the Authority's Contracts Manual.

9.5.2 Allowed Exceptions

There are a number of circumstances where obtaining quotations and tenders for amounts less than the EU threshold may not be possible or necessary. Subject to the EU rules and paragraph 9.5.3, tenders and quotations need not be sought if:-

- a) the work to be executed or the goods or materials to be supplied constitute the first valid extension of an existing contract, which has been procured through a Best Value exercise, provided that such an extension has received the necessary budget approval and does not exceed the value of the original contract or the next value threshold in 9.3.2. Contracts must not be extended where the total value will exceed the EU threshold. (See also para 3.3.1 on the use of consultants, individuals as contractors and specialist advisors).

- b) the Council is buying from a contract entered into following a proper tendering exercise by a consortium, collaboration, or similar central procurement body, of which the Council is a member and which the Council is authorised to buy from or through. Guidance on the use of Central Procurement Bodies is available in the Contracts Manual;
- c) the work to be executed or the goods or materials to be supplied consist of repairs to, or parts for, existing proprietary machinery, where such repairs or parts are specific to that machinery OR upgrades to existing software packages. For upgrades to software, the Service Director - ICT should also be consulted.
- d) works, supplies or services are urgently needed for the immediate protection of life or property, or to maintain the immediate functioning of a public service for which the Council is responsible. In such cases the contract must only last as long as is reasonably necessary to deal with the specific emergency;
- e) the Strategic Director decides that special circumstances make it appropriate and beneficial to negotiate with a single firm or that a single tender be invited. This will include occasions when it can be established that there is only a single source available or where the Strategic Director or his/her designate can demonstrate that best value for the Authority can be better achieved by not tendering.

9.5.3 Prior approval from the Head of Service, Departmental Budgeting and Accounting must be obtained for all exceptions 9.5.2 (a) to 9.5.2 (e).

9.5.4 For exception 9.5.2 (e), where the expected expenditure is **over £25,000**, prior approval must be also obtained from the Strategic Director, Resources (represented by the Head of Service, Audit and Investments) AND the Assistant Chief Executive. In all cases formal approval must be sought using the approved waiver request procedure.

9.5.5 Strategic Directors must ensure that, for all the above exceptions, there is documented justification for the waiver request and a copy of the formal approval in the relevant project file.

9.6. Tender Preparation

9.6.1 Tenders may be invited for submission by any means approved by the Strategic Director, Resources e.g. by physical means such as post, courier or hand delivery) OR by electronic means such as approved e-tendering. The invitation to tender (ITT) must clearly specify the means of submission to be used for each tender and any associated rules pertaining to the submission.

9.6.2 All invitations to tender must specify that the Council is not bound to accept the lowest or any quotation or tender.

- 9.6.3 Where prior advertisement has not specified the award criteria, the invitation to tender must state the award criteria in objective terms together with the weighting for each of the chosen criteria. (This does not apply to the sale of property). Further guidance on evaluation and award criteria is available in the Contracts Manual.
- 9.6.4 Subject to the EU Procurement Rules, the invitation to tender should normally include the County Council's contract terms. All invitation documents for contracts above the EU threshold must contain information for tenderers about the way the standstill period will be applied – see Contracts Manual.
- 9.6.5 All invitations to tender must include such other information or instructions as the Assistant Chief Executive may require.
- 9.6.6 All instructions to tenderers must include specific instructions on the application of the Freedom of Information Act 2000 and the Human Rights Act 1998. Further guidance on these matters is available in the Contracts Manual.
- 9.6.7 Pre-Tender enquiries may be carried out prior to the issue of an invitation to tender. The purpose is to ensure that an effective Invitation to Tender is prepared, for example, where the technical specification is so complex that it cannot be drawn up without information from prospective contractors. All potential contractors must be treated equally within this process.
- 9.6.8 If post-tender negotiations are anticipated, the tender documents must state that these may take place.
- 9.6.9 The invitation to tender should specify that, where examination of tenders reveals errors which would affect the tender figure in an otherwise successful tender, the tenderer must be notified of such errors and given the opportunity to clarify and confirm or withdraw their tender.
- 9.6.10 Tenders may be evaluated on the basis of price, or a mixture of price and quality criteria. The basis on which the tender will be evaluated must be determined before tenders are invited and included as part of the invitation to tender information.
- 9.6.11 Prospective tenderers must be informed that no work may start on site or goods or materials ordered until either:-
- a) an official order has been issued (see 9.3.4) or
 - b) a formal contract and a completed bond, in accordance with section 9.12, has been duly executed by the contractor and returned to the Council (see 9.3.5).
- 9.6.12 If a performance bond is required (see section 9.12), the nature and amount of the security to be given should be specified in the conditions of tender.
- 9.6.13. All tenders for the execution of works or the supply of goods or materials must be based on a clearly defined specification or bill of quantities.

9.6.14 All tenders shall require that, as a minimum, goods and materials used in their execution must be in accordance with relevant specifications issued by the British Standards Institute, or by the European Union, or its equivalent.

9.6.15 Tenders for capital works should include evaluation of the full lifecycle costs applicable to the works. This may also apply to other purchases such as ICT hardware and software where the cost of consumables or annual licences and support contracts can significantly increase costs over time. Further guidance on lifecycle costing will be developed by the Corporate Procurement Unit (CPU) and in the Contracts Manual

9.7 Receipt and Opening of Tenders

9.7.1 Every invitation to tender must state that a tender will only be considered if it is submitted in accordance with the instructions provided, and received by the date and time specified in the invitation to tender. The invitation to tender must also state that tenders which do not comply fully may be rejected.

9.7.2 Tenders submitted electronically must comply with, and be processed in accordance with the Authority's approved electronic tendering procedures.

9.7.3 Tenders submitted by physical means (e.g. by post or courier) must arrive in a sealed, plain envelope or package with the word "Tender" and the title of the contract clearly written on each envelope or package.

9.7.4 Such envelopes and packages must be addressed impersonally to :

- a) the appropriate Strategic Director, for tenders where the total expenditure over the duration of the contract is estimated to be **less than £100,000 or**
- b) the Assistant Chief Executive, for tenders where the total expenditure over the duration of the contract is estimated to **£100,000 or more.**

9.7.5 Until the time specified for opening tenders, tender envelopes or packages received must remain in the custody of the Assistant Chief Executive or the appropriate Strategic Director, as the case may be. Electronic tenders must be held securely in a manner approved by the Strategic Director, Resources (Represented by the Head of Service, Audit and Investments).

9.7.6 The opening of tenders must comply with the following requirements:-

- a) **Total Estimated Cost Less Than £100,000** - tenders must be opened and recorded at one time in the presence of:-
 - i) the person responsible for letting the contract and,
 - ii) a Supervising Officer, with suitable seniority, training and experience in the role and responsibilities of a supervising officer, who must not have any direct involvement in the administration of the contract to be awarded.

b) **Total Estimated Cost £100,000 or more** - tenders must be opened and recorded at one time in the presence of:-

- i) a representative of the Assistant Chief Executive
- ii) a representative from the appropriate Department.
- iii) a Supervising Officer of Senior Officer grade or above provided by the Assistant Chief Executive or the Strategic Director, Resources (represented by the Head of Service, Audit and Investments).

9.7.7 A formal record of all tenders received for each contract must be retained and must include:-

- a description of the contract being let.
- the date and time set for receipt of tenders.
- the date and time tenders were opened.
- the Supervising Officer and other officers present

And for each tender:

- the tenderer's name,
- the date received,
- the tendered value (where applicable)
- details of any noteworthy events (e.g. tender excluded with reasons)

9.7.8 The procedures to be followed when opening tenders will be determined by the Assistant Chief Executive and the Strategic Director, Resources (represented by the Head of Service, Audit and Investments). These procedures must include provision for dealing with late tenders and other complications that may arise – see the Guidance for Supervising Officers.

9.8 Clarification of Tenders

9.8.1 If the examination of tenders and supporting documentation reveals errors, discrepancies or ambiguities which would affect an otherwise successful tender, such errors or discrepancies must be dealt with in accordance with the procedures set out in the invitation to tender (see 9.6.9).

9.8.2 Where the procedure for dealing with errors or discrepancies is not clearly specified by the invitation to tender, the tender must be referred to the Assistant Chief Executive and the Strategic Director, Resources (represented by the Head of Service, Audit and Investments) for a decision on the appropriate action to be taken.

9.8.3 Under no circumstances must the clarification process be used to attempt to seek an adjustment of prices or other changes to the specification tendered. Nor must prices or other confidential information from any tender be divulged to other bidders, or individuals not properly connected with the evaluation of tenders.

9.8.4 Care should be taken to check that tenders submitted contain realistic prices and are not abnormally low. Where tenders are received that appear to be abnormally low they may be rejected but only if certain steps are followed (see Regulation 30(6) of Public Contracts Regulations 2006).

9.9 Post-Tender Negotiations

9.9.1 The following rules only apply to tenders under the EU threshold. Where EU procurement regulations apply, negotiations may only be conducted in accordance with EU regulations after consultation with the Assistant Chief Executive.

9.9.2 Post-tender negotiation constitutes discussion with tenderers after the submission of a tender, but before the award of the contract, including negotiations following the receipt of non-compliant bids. The purpose of post-tender discussion may be to obtain an adjustment to the price, delivery or content of the contract.

9.9.3 Post-tender negotiations may only be entered into if advanced notice is included in the tender documents (see 9.6.8).

9.9.4 The relevant Strategic Director must provide written approval before post tender negotiations are entered into.

9.9.5 Negotiations should be conducted by a team of at least three senior officers, one of whom must be from an independent division. A lead officer must be appointed with responsibility for ensuring that these procedures are adhered to. The team must observe the highest standards of integrity and fairness.

9.9.6 Negotiations must be conducted with all tenderers to ensure equality of treatment and opportunity, unless there are clear and objectively justifiable reasons for excluding one or more of them. All negotiations must be recorded and retained on file. In case of doubt, the lead officer should seek advice from the Assistant Chief Executive.

9.9.7 Comprehensive, written records of all negotiations must be retained to ensure that the requirements for accountability are met. The records must contain details of the officers involved, the name of the tenderer(s), reasons for entering negotiation and any exclusions from the negotiation, time, date, manner (e.g. meeting, email, telephone etc.) and details of discussions and agreements reached. The record must be signed by the officers involved to confirm its accuracy.

9.9.8 Agreements reached during negotiations must be incorporated into the contract.

9.10 Acceptance of Tenders

9.10.1 Subject to the requirements of para 9.11.2, a tender may be accepted as the winning tender by the appropriate Strategic Director using a form of acceptance letter approved by Legal Services. Notification of acceptance must also be provided to the Corporate Procurement Unit giving the details they need to maintain their Contracts Database.

- 9.10.2 For capital contracts, where the winning tender exceeds the figure in the latest estimated cost (LEC) report, the following requirements apply:-
- a) Where the excess is over 20% of the LEC, the Strategic Director must reappraise the project to confirm it is still viable and must inform the Strategic Director, Resources (represented by the Service Director - Finance and Trading) about the reappraisal and the proposed methods of financing the additional cost. The Strategic Director, Resources may submit a report to Cabinet if considered necessary.
 - b) Approval for the additional funds required to proceed with the scheme must be obtained in accordance with the process set out at para 4.6.1.
- 9.10.3 Where the tender sum **exceeds £2 million** a tender must not be accepted until the Strategic Director, Resources (represented by the Service Director - Finance and Trading) has been consulted and approved it.
- 9.10.4 The successful tender(s) will be selected by applying the evaluation criteria to each bid received in accordance with the evaluation scheme set out in the invitation to tender (ITT). The selection will be either on the basis of the Most Economically Advantageous Tender to the Council or the lowest price offered. In most cases the Most Economically Advantageous Tender criteria will be applied by considering both price and relevant quality factors. Only in relatively few cases will price alone be capable of meeting the Council's duty to secure Best Value. Further guidance on tender evaluation is given in the Contracts Manual.
- 9.10.5 Subject to the requirement for a standstill period – see 9.11.2 below, all tenderers must be notified of the result of the procurement as soon as possible after the award decision. The notification must contain:-
- a) the award criteria
 - b) where appropriate, the tenderer's score
 - c) where appropriate, the winning tenderer's score
 - d) the name of the winning tenderer
- 9.10.6 Where a tenderer requests information on how the award decision was reached by midnight of the second working day of the standstill period referred to in Regulation 9.11.2 below (called a request for an "Accelerated Debrief") this information must be provided at least 3 days before the end of the standstill period or if necessary the standstill period must be extended accordingly. In all other cases detailed information must be provided within 15 calendar days of the request. (See also debriefing guidance in the Contracts manual).
- 9.10.7 Within 48 days of awarding an EU contract, a Contract Award Notice, in the prescribed form, must be sent to the Official Journal of the European Union (OJEU).

9.11 Contracts and Orders

- 9.11.1 Except in cases of emergency (see 9.3.3) no contract may be awarded, or order raised, unless the expenditure has been included in approved estimates or in capital or revenue accounts, or has been otherwise approved by, or on behalf of, the Council.
- 9.11.2 For contracts above the EU threshold, there must be a minimum standstill period of at least 10 calendar days between communicating the award decision to all tenderers and contract conclusion. This does not apply to procurement outside the full scope of EU procurement directives or where single tendering takes place under the extreme urgency provision of the negotiated process. (See guidance provided in the Contracts Manual).
- 9.11.3 A 10 day standstill period is required before awarding a contract after a stand-alone e-auction is closed (i.e. an e-auction which is run outside a framework agreement) or at the end of an e-auction run within a Dynamic Purchasing System. E-auctions held within framework agreements are for specific call-offs so they do not need a standstill period. For e-auctions outside of a framework agreement the terms and conditions of contract will need to be amended prior to the e-auction to ensure that the contract is not automatically formed when the final bid is accepted, to ensure compliance with UK and EU legislation.
- 9.11.4 All contracts for construction and maintenance work must be executed as Deeds under Seal along with any other contracts or agreements as may be specified from time to time by the Assistant Chief Executive.
- 9.11.5 Other orders and contracts must, as a minimum, be signed in accordance with the table below (N.B. officers authorised to sign higher value contracts may also sign the lower value orders and contracts):-

Estimated Value	1 st Signatory	2 nd Signatory
Under £50,000	Budget Holder *	n/a
£50,000 - £250,000	Budget Holder	Officer of equal or senior status to the Budget Holder
£250,001 - £1m	Budget Holder	3 rd tier officer or above
Over £1m	must be executed as a deed under seal	

** For orders under £50,000, the budget holder may set up a formal list of officers authorised to sign orders against his/her budget. This list must specify the value limit of the delegated authority for each officer.*

N.B. Where there is no relevant budget holder for an order or contract (e.g. where items are procured corporately on behalf of all Departments) the Budget Holder role may be undertaken by an appropriately authorised officer within the Corporate Procurement Unit.

- 9.11.6 All tender and contract documents and orders must be in a form drawn up or approved by the Assistant Chief Executive.
- 9.11.7 Strategic Directors are responsible for the control of all official orders issued from their Department. Order forms should be standardised wherever possible and approved by Legal Services every three years to confirm that the terms and conditions in use are appropriate.
- 9.11.8 Any contract in which the Council provides an indemnity or guarantee must have prior approval from the Assistant Chief Executive.
- 9.11.9 Official orders are not required for metered supplies of utility services once a contract is in place; for periodic payments such as rents and rates; for petty cash purchases or for other exceptions approved by the Strategic Director, Resources (represented by the Head of Service, Audit and Investments).

9.12 Contract Provisions

- 9.12.1 Contracts for the execution of work or for the supply of goods or materials by a particular date, or series of dates, must provide for liquidated and ascertained damages, unless deemed unnecessary by the appropriate technical officer (see 4.3.2) after consultation with Assistant Chief Executive. The amount to be specified in each such contract will be determined by the appropriate technical officer in consultation with the Assistant Chief Executive.
- 9.12.2 Security in the form of a bond is required for the due performance of a contract, where:-
- a) the total value of the contract **exceeds £1 million**; AND
 - b) the contract is for the execution of work or for the supply of goods or services by a particular date or series of dates.
- 9.12.3 The Strategic Director or appropriate technical officer may decide that a bond is required **below £1 million** if the Authority is at particular risk. This may arise where the contractor concerned has a number of other contracts with the Authority which in aggregate **exceed £1 million** or if the contract period is particularly long or if the contract is particularly complex.
- 9.12.4 Where a bond is required, the Strategic Director or appropriate technical officer, in consultation with the Assistant Chief Executive and the Strategic Director, Resources (represented by the Head of Service, Audit and Investments), must specify, as a provisional item in the conditions of tender, the nature and amount of the security to be given. The security must be in a form, and be obtained from an institution, approved by the Strategic Director, Resources (represented by the Head of Service, Audit and Investments).
- 9.12.5 All construction and maintenance contracts must provide for a payment retention to be withheld for an appropriate period to allow for the rectification of faults and defects. The retention should normally be 5% of the contract sum but Technical Officers may vary this rate if they consider it appropriate to do so. Justification for using a different retention rate must be retained on file.

9.12.6 The requirement for bonds and retentions does not apply when the Strategic Director or appropriate Technical Officer concerned is of the opinion that such security is unnecessary after consultation with the Assistant Chief Executive and the Strategic Director, Resources (represented by the Head of Service, Audit and Investments).

9.12.7 On satisfactory completion of the work, the release of any security must be authorised by the Strategic Director or appropriate Technical Officer.

9.12.8 All contracts for the execution of works or the supply of goods or materials must be based on a clearly defined specification or bill of quantities.

9.12.9 All contracts must require that, as a minimum, goods and materials used in their execution will be in accordance with relevant specifications issued by the British Standards Institute, or the European Union or its equivalent.

9.13 Retention of Records and Information on Contracts and Tenders

9.13.1 Section 6 of these Regulations relates to retention of records and information in general, however there are some specific issues to consider in respect of information management where contracts and tenders are concerned.

9.13.2 There is a general presumption in favour of disclosure of information and information can and should only be withheld if certain limited exceptions are met. Careful consideration of the issues will be required in accordance with the Council's Information Management Policy.

9.13.3 The most relevant exceptions in the context of procurement are:

- **Information provided in confidence** (where the Council is contractually bound not to disclose certain information and to do so would be liable for breach of contract). Care should therefore be taken not to enter into blanket confidentiality clauses in contracts or tender documents.
- **The public interest test** (whereby the respective public interests in disclosure versus non-disclosure are weighed).
- **Commercial interest** (such as trade secrets of information genuinely unique to a bidder or contractor which, if revealed, is likely to cause real or significant harm to that trade or business).
- **Timing** (very often in a commercial environment the timing of any disclosure of information held will be critical. For example, information submitted during a tender process is more likely to be commercially sensitive whilst the tender process is ongoing compared to after the contract has been awarded, although some information may remain commercially confidential throughout the contract);

9.13.4 Due to the particular risks involved the following safeguards should be followed:

- a) all tender documents must make reference to the Council's statutory duty in respect of FOI and the potential requirement to disclose information submitted unless the limited exceptions are satisfied;

- b) rules to be followed when information requests are received should be set out in the contract (especially larger more complex contracts);
- c) consultation with affected bidders is advisable before disclosing information, although ultimately the decision on whether or not to release any information held is a matter for the Council alone.

9.13.5 Guidance on Freedom of Information (FOI) and the Council's Information Management Policy is available on the Council's Intranet site. Detailed guidance about FOI and procurement is available on the OGC website, from the Information Commissioner's website, in the Contracts Manual and from Legal Services.

9.14 Contract Payments

9.14.1 Where contracts provide for payment to be made by instalments, the appropriate Strategic Director must maintain a record of the payments made on the project file. The record(s) must show the state of account on each contract between the Council and the contractor together with any other payments and the related professional fees.

9.14.2 Payments to contractors on account of such contracts must be made only on provision of a certificate showing the total amount of contract, the value of the work executed to date, retention monies, the amount paid to date and the amount now certified. These certificates should be issued by the appropriate Strategic Director or the Consultant responsible for the contract.

9.14.3 The approved sum payable to the contractor is the tender sum as accepted under the procedure at 9.10 plus such additional sums due under the contract as have also been properly approved.

9.14.4 Where certificates are submitted for amounts which exceed the approved sum, the Strategic Director, Resources (represented by the Heads of Service, Departmental Budgeting and Accounting) only has authority to pay such certificates where the amounts can be justified and it is in the best interest of the Council to do so.

9.14.5 As soon as it becomes apparent that the approved sum will be exceeded, a report must be presented to the Strategic Director, Resources (represented by the Heads of Service, Departmental Budgeting and Accounting), who may also require a report to be submitted to the Cabinet.

9.14.6 In respect of variable price contracts, such as PFI or PPP contracts which have complex variation procedures, the appropriate Strategic Director must periodically review the cost and report to the Strategic Director, Resources (represented by the Service Director - Finance and Trading) if the contract sum is likely to be exceeded. These reports must be made whenever significant increases are identified and at least every six months up to completion of the contract.

9.15 Contract Administration

- 9.15.1 Strategic Directors or the appropriate Technical Officers must provide written guidelines on the minimum standards of record keeping required for supervising contracts.
- 9.15.2 Claims from contractors regarding matters which are not clearly within the terms of the contract must be referred to the Assistant Chief Executive for consideration of the Council's legal liability as soon as they are notified to the Council. Where the Assistant Chief Executive considers it necessary, these claims must be also be referred to the Strategic Director, Resources (represented by the Head of Service, Audit and Investments) for financial consideration before a settlement is reached.
- 9.15.3 Valid claims for loss and expense arising from delays and disruption must be notified to the Assistant Chief Executive where they are likely to **exceed £100,000** or where there is a possibility of legal proceedings, including arbitration or alternative dispute resolution procedures provided by the contract.
- 9.15.4 Liquidated and ascertained damages, where allowed for, must be applied in respect of contracts which are not completed within the original contract period together with any extensions of time granted in accordance with the contract unless the Strategic Director, Resources (represented by the Head of Service, Audit and Investments) and the Assistant Chief Executive agree otherwise.

9.16 Final Accounts

- 9.16.1 Final accounts for building and constructional works carried out under formal contract must be reported to the relevant Cabinet Member by the appropriate Strategic Director, if required by the Strategic Director, Resources (represented by the Service Director - Finance and Trading).
- 9.16.2 The Strategic Director, Resources (represented by the Head of Service, Audit and Investments) shall, where considered necessary, examine the contract final accounts and is entitled to make all such enquiries and receive such information and explanations as may be required to confirm the completeness and accuracy of the accounts.

9.17 Administration of Contracts by Consultants

- 9.17.1 Where a consultant (e.g. an architect, engineer, surveyor or other consultant) who is not an employee of the Council, is engaged to be responsible to the Council for the administration of a contract on its behalf, the consultant must:-
- a) be notified of, and comply with, the Council's Financial Regulations as would a Strategic Director;
 - b) be notified of, and comply with, the Code of Conduct for Officers;
 - c) retain all relevant records (see section 6 and para 9.13) regarding the contract for a period specified by the responsible Strategic Director;

- d) allow access to contract records and documentation upon request from the responsible Strategic Director or the Strategic Director, Resources (represented by the Head of Service, Audit and Investments); and
- e) hand over the appropriate "as-built" drawings promptly together with all project and contract documentation to the Council, and in any case within six months of completion of the works.

10. PAYMENT FOR GOODS, SERVICES AND WORKS

- 10.1 Before authorising an official purchase invoice, or any process that may lead to a payment, officers must:-
- a) ensure they are authorised to process the payment;
 - b) satisfy themselves that the goods/services/works are a proper charge on the funds under their control;
 - c) satisfy themselves that the goods/services/ works have been received, conform in all respects with the official order and are acceptable in every way;
 - d) ensure that amounts are correct and include all discounts due;
 - e) where payment is made by purchase card, charge card or credit card, it may not be possible to comply with c) above but officers must ensure compliance with a), b) and d) AND with the guidance for the use of purchase cards.
- 10.2 The Council's normal method of payment of monies owed is by BACS or cheque or purchase card.
- 10.3 Direct Debits must not be set up on any of the Authority's bank accounts, including imprest accounts, without the prior written approval of the Strategic Director, Resources (as represented by the Head of Service, Procurement and Trading).
- 10.4 Direct Debits must be cancelled promptly when the related goods or services are no longer being received. All Direct Debits must be reviewed annually to confirm they are still appropriate.
- 10.5 In addition to the responsibilities set out in Financial Regulations, an officer initiating payment should also ensure that the account has not previously been passed for payment and that it is coded to the correct accountancy code for which prior approval has been obtained from the budget holder.
- 10.6 The duties of ordering, receiving goods and certifying invoices for payment must not be performed by the same officer without prior agreement of the Strategic Director, Resources (represented by the Head of Service, Audit and Investments). Where electronic procurement systems have been approved, these systems may allow single officers to do this, provided that they have suitable security protocols to the satisfaction of the Strategic Director, Resources (represented by the Head of Service, Audit and Investments).
- 10.7 On no account can VAT invoices be amended. A credit note or replacement invoice must be obtained from the supplier.
- 10.8 Invoices must not be made out by officers of the Council except in the case of recurring or other items, e.g. rent where no invoice is normally receivable, when a special form of internal invoice may be used. An officer must not add any additional item or items to an invoice received by the County Council.

10.9 The Strategic Director, Resources (as represented by the Service Director – Finance and Trading) may carry out additional checks on high value payments as thought necessary.

11. INCOME AND BANKING

11.1 Income and Receipts

- 11.1.1 To comply with anti money-laundering regulations, the Authority has nominated the Service Director – Finance and Trading as its anti money-laundering officer and introduced an anti money-laundering policy and an anti money-laundering guidance note. Strategic Directors must ensure compliance with this policy.
- 11.1.2 Cash payments of **more than £10,000** must not be accepted for a single transaction without the formal approval of the Service Director – Finance and Trading.
- 11.1.3 The following requirements apply to all income received:-
- a) all income must be recorded and accounted for immediately it is received. Where appropriate, an official receipt must be provided.
 - b) the transfer of money from one employee to another must be properly recorded and acknowledged.
 - c) income must be banked intact and not used to finance expenditure.
 - d) encashment of personal cheques is forbidden.
 - e) income must be held securely until suitable arrangements for banking it are made - see 7.2 and 11.1.6 below.
- 11.1.4 All official receipt books relating to the collection of income are ordered, and issued by the Strategic Director, Resources unless otherwise agreed with the Strategic Director, Resources (represented by the Head of Service, Audit and Investments). The issue of all such documents must be acknowledged by signature of the officer to whom the issue was made.
- 11.1.5 Where income is received by cheque, it must be cross-referenced on the bank paying-in slip to the drawer, either by receipt number or name. In addition, the reverse of each cheque must show the department, office or establishment that paid the cheque into the bank.
- 11.1.6 All monies received must be banked intact, and as promptly as possible and at least weekly.
- 11.1.7 Where there is a main collection e.g. school meals money, all monies must be banked, or lodged with the approved collector, on the day of the collection.
- 11.1.8 If an officer fails to comply with the above guidelines and a loss occurs, the Strategic Director, Resources (represented by the Head of Service, Audit and Investments) may, where appropriate, seek restitution from the officer concerned in accordance with the Personnel Handbook, section D36.
- 11.1.9 Money received by officers which is held in trust but not being official Council money must be properly recorded in a form agreed by the Strategic Director, Resources (represented by the Head of Service, Audit and Investments).

11.1.10 All arrangements to receive payments by Credit Card, Direct Debit, Standing Order, or other e-payment methods must be first approved by the Strategic Director, Resources (represented by the Heads of Service, Departmental Budgeting and Accounting).

11.2 Debtors

11.2.1 It is the Council's policy to recover all collectable debt owed to it in accordance with the approved payment terms. Strategic Directors are responsible for ensuring that formal invoices, in respect of the goods and/or services being supplied on credit, are raised within 10 working days of the goods and/or services being provided unless all the necessary information to raise the invoice is not available. A Best Practice Guide entitled 'Raising and Collecting Debt' together with a 'Practitioner's Guide', are available on the intranet which should be followed to ensure that the Council's debt is actively managed.

11.2.2 Sales invoices should not normally be raised to cover sums due to the County of **less than £30**. Wherever possible small sums should be collected in cash or by cheque in advance. Accounts for sums due to the Council at fixed intervals e.g. rents, wayleaves, etc, will be issued by the Strategic Director, Resources (represented by the Head of Service, Procurement and Trading) and payment should be made to the Strategic Director, Resources. Strategic Directors must submit sufficient information for the Strategic Director, Resources to undertake these duties.

11.3 Write-Offs

11.3.1 The Strategic Director, Resources (represented by the Heads of Service, Departmental Budgeting and Accounting) may agree to debts of **up to £1,000** being written-off by the Strategic Director. Amounts **over £1,000** may be written-off by the Strategic Director, Resources (represented by the Head of Service, Procurement and Trading) after consultation with the Assistant Chief Executive and appropriate Strategic Directors.

11.3.2 A summary of all write-offs must be included in the Final Accounts report to Cabinet members.

11.3.3 Where a sales invoice requires cancellation a credit note must be raised, complete with a cross-reference to the original sales invoice. The credit note must be duly certified on behalf of the Strategic Director.

11.4 Imprest Accounts

11.4.1 Strategic Directors must operate imprest accounts in accordance with the guidance provided and arrangements between their Department and the Strategic Director, Resources.

11.4.2 The Strategic Director, Resources (represented by the Head of Service, Procurement and Trading) will control the opening and closing of imprest accounts in line with overall banking arrangements at the request of the appropriate Strategic Director.

- 11.4.3 The Strategic Director, Resources (represented by Heads of Service, Departmental Budgeting and Accounting) will determine the appropriate level of the Imprest, based on the average monthly level of petty cash expenditure in the establishment concerned.
- 11.4.4 The nominated imprest holder must ensure that all transactions are recorded promptly and that monthly statements are submitted to the Strategic Director, Resources (represented by the Head of Service, Procurement and Trading).
- 11.4.5 The nominated imprest holder must ensure that the imprest account is not overdrawn.
- 11.4.6 Income received on behalf of the Council must not be paid into an imprest account.
- 11.4.7 Payments from an imprest account should normally be limited to minor or urgent items of expenditure, or payments via charge cards. Each payment must be supported by a receipt which should be appended to the subsequent reimbursement claim.
- 11.4.8 All imprest accounts are subject to Council audit. The officer in charge of the account will be required to give to the Strategic Director, Resources (represented by the Head of Service, Audit and Investments) a certificate as to the state of the imprest account upon request.
- 11.4.9 Where an officer responsible for an imprest account leaves the Authority, the Strategic Director concerned must notify the Strategic Director, Resources (represented by the Head of Service, Procurement and Trading) as soon as possible that the officer is no longer responsible for that account. On leaving the Authority or upon transfer to another post, the officer responsible must formally hand over responsibility to the new designated person.

11.5 Banking

- 11.5.1 The Strategic Director, Resources (represented by the Service Director - Finance and Trading) must operate banking accounts in accordance with the bank contract approved by the Cabinet Member for Finance and Property.
- 11.5.2 All bank accounts must have a title which incorporates the Authority's name and in no circumstances should a bank account be opened or operated in the name of an individual.
- 11.5.3 All payments to and from Council bank accounts must be made under the direction of the Strategic Director, Resources (represented by the Head of Service, Procurement and Trading OR the Service Director - Finance and Trading).
- 11.5.4 All cheques drawn on the Council's main bank accounts must bear the printed signature of the Strategic Director, Resources or, be signed by the Strategic Director, Resources or, by any officer authorised by him. Where required by the Council's bank mandate, cheques must also be countersigned by a second officer who is authorised to do so by the Strategic Director, Resources.

11.5.5 All payments by CHAPS must be authorised by a senior officer nominated by the Strategic Director, Resources.

12. RISK MANAGEMENT AND INSURANCE

- 12.1 The Authority's approach to risk management is detailed in its Risk Management Strategy and the Corporate Risk Register contains the key risks facing the Authority and how these risks will be managed. Strategic Directors are responsible for ensuring that risk management is applied appropriately within their Department and for notifying the holder of the Corporate Risk Register of all appropriate risks in accordance with the Risk Management Strategy.
- 12.2 The Strategic Director, Resources (represented by the Head of Service, Audit and Investments) is responsible for arranging all necessary insurance cover and for reviewing the adequacy of this cover regularly, in consultation with Strategic Directors. The Strategic Director, Resources will also keep Strategic Directors informed of claims experience.
- 12.3 Strategic Directors are responsible for notifying the Strategic Director, Resources (represented by the Head of Service, Audit and Investments) of all material changes in insurance risks and must submit insurance claims in accordance with the arrangements made by the Strategic Director, Resources (represented by the Head of Service, Audit and Investments).
- 12.4 In the event of buildings, contents, motor vehicles etc. being damaged, contact must be made with the Risk and Insurance Section as soon as practicable.
- 12.5 Where there is death or very serious injury to an employee or other person arising from County Council operations (including the use of vehicles), the Risk and Insurance Section must be contacted as soon as possible for appropriate insurance advice.
- 12.6 Under no circumstances must liability be admitted in connection with accidents involving a third party.
- 12.7 The Risk and Insurance Manager may negotiate and agree settlements on any insured loss / claim up to the individual policy excess. Above this limit, the Risk and Insurance Manager must consult the Strategic Director, Resources (represented by the Head of Service, Audit and Investments) and agree settlements as appropriate, in consultation with the Authority's Insurers and Loss Adjusters. Reports detailing all significant claims settled will be submitted to the Cabinet Member for Finance and Property.

13. TRAVEL AND SUBSISTENCE CLAIMS

Travel and Subsistence

- 13.1 Travel and subsistence incurred by officers in connection with their duties is covered by the Authority's Travel and Accommodation Policy set out in the Constitution.
- 13.2 Travel, subsistence and incidental expense claims made by officers are governed by nationally agreed terms and conditions of service. These conditions are supplemented by the Council's local conditions laid down in sections D7 and D10 of the Personnel Handbook. The prevailing rates of allowances are available in the 'Working for NCC' section of the NCC intranet.
- 13.3 All claims for officers' expenses should be submitted monthly in a form approved by the Strategic Director, Resources, and be authorised by a Strategic Director, or nominee, prior to payment. VAT receipts should be provided to support all claims, including fuel purchased for private cars where mileage is claimed.
- 13.4 The officer certifying claims for payment must be satisfied that the journeys undertaken were legitimate and that the expenses claimed were properly and necessarily incurred. Mileage claims should be verified wherever possible. Officers are responsible for ensuring that the costs claimed are kept to a minimum without unduly reducing the efficiency of the tasks carried out.
- 13.5 Where claims are submitted more than six months after the expenses were incurred, the claim will only be paid with the express approval of the Strategic Director, Resources (represented by the Head of Service, Procurement and Trading) and will be reduced in accordance with the Personnel Handbook, section D7, para 1.17.

Taxation Implications

- 13.6 HM Revenue and Customs regard certain travel expenses to be taxable payments and the Strategic Director, Resources is required to make appropriate arrangements to recover the sums due. Guidance on Taxable Benefits is available on the NCC Intranet and full details of taxation requirements are obtainable from Departmental Personnel Officers.

14. WORK FOR EXTERNAL BODIES

14.1 General Requirements

14.1.1 The Council has the power under the Local Authorities (Goods and Services) Act 1970 to undertake and tender for the work of other public bodies. Public Bodies are defined in the act or can be designated by Order of the secretary of State. Other powers introduced in the Local Government Act 2003 enable the Council to:

- charge for discretionary services subject to certain rules, and
- trade for a profit provided that a separate company is set up;

(See below for further details regarding these powers)

14.1.2 In all cases where a Department wishes to explore the possibility of working for, or trading with, external bodies, Strategic Directors must consult with the Assistant Chief Executive and the Strategic Director, Resources.

14.1.3 Where work is carried out for external bodies, officers must follow the guidance for such work which is available in the Contracts Manual.

14.1.4 Before entering into any contract or agreement to work for, or trade with, external bodies, Strategic Directors must present a report to, and obtain prior approval from the relevant Cabinet Member.

14.1.5 Where it is intended to trade for a profit, Strategic Directors must prepare a sound business case, based on a genuine risk-based approach, for the proposed trading activity. The business case must be a robust commercial assessment and explain why trading through a company is desirable and will provide best value for the Council.

14.1.6 The Assistant Chief Executive and the Strategic Director, Resources (represented by the Head of Service, Audit and Investments) must be informed of all contracts to supply services governed by the 1970 Act or the 2003 Act and all new contracts must be approved by the Assistant Chief Executive see para 9.12.

14.2 Background

14.2.1 The powers for local authorities to work for, and trade with, external bodies are governed by the Local Authorities (Goods and Services) Act 1970, Local Government Act 2000 and the Local Government Act 2003.

Local Authorities (Goods and Services) Act 1970

14.2.2 The Council has the power under the Local Authorities (Goods and Services) Act 1970 to undertake and tender for the work of other public bodies. Public bodies are defined in the Act or can be designated by order of the Secretary of State.

14.2.3 The Council has some discretion under the 1970 Act whether to charge for any work undertaken for another public body. However, as a general principle the charge for any work should cover the estimated full cost of undertaking the work, including the direct cost e.g. staff time costs, travel and printing expenses and a contribution towards overheads e.g. office expenses and accommodation costs.

Local Government Act 2003

14.2.4 The Local Government Act 2003 provides best value authorities with new powers to trade for profit, and charge for discretionary services. This extends beyond the powers under the 1970 Act referred to above.

Charging for Discretionary Services

14.2.5 The Council is able to charge for services which it has the power to provide, but is not obliged to provide to the public, i.e. discretionary services.

14.2.6 The Council is under a duty to ensure that, taking one year with another, the charges made do not exceed the cost of providing the services (i.e. the provision of the service should not amount to trading for a profit – see below for powers to trade where other statutory requirements apply). Charges can be set so that different people are charged different amounts, or are not charged for the service at all.

14.2.7 The person receiving the service must have agreed to receive the service and pay for it.

14.2.8 The new power does not override any other legislation which expressly prohibits the Council from charging for a discretionary service.

14.2.9 Where charges are made for discretionary services arrangements should be put in place, and fully documented in a form approved by Legal Services, to provide the recipient of the service with:-

- the terms and conditions for the provision of the service;
- information about charges, including discounts and annual increases;
- billing and payment arrangements.

14.2.10 Careful consideration should also be given by the relevant department to issues such as:-

- the risks to the Council as a whole of engaging in such activity;
- the need to ensure appropriate skill and expertise is in place before offering to undertake work for external bodies;
- the need to ensure that the proposals are properly costed before agreeing to supply the goods, works or services;

- the type of warranties and/or indemnities that the external body may require from the Council regarding the quality of work/service provided (this is especially likely when tendering for work for other bodies);
- the provision of adequate insurance arrangements to cover the Council for any liability in negligence or contract for the work undertaken;
- due consideration being given to the impact of such arrangements on the Council's core duties, functions and obligations to prevent any adverse impact on them;
- ensuring that the Council is not at risk from bad debts and to seek, where appropriate and possible, advance payment for goods, works or services to be supplied;
- ensuring that no contracts for external bodies are subsidised by the Council from public funds.

The power to trade

- 14.2.11 This power allows the Council to trade in any of its ordinary functions for a commercial purpose (i.e. for profit) through a company. The power is only given to authorities who have been rated as either "excellent", "good" or "fair" in its CPA assessment. However, if the Council ceases to be eligible to trade due to a change in the CPA rating, then the power to trade will cease within two years of the revised CPA rating.
- 14.2.12 Where it is intended to trade for profit, Strategic Directors must prepare a sound business case for the proposed activity, based on a genuine risk-based approach. The business case must be a robust commercial assessment which explains why trading through a company is desirable and will provide best value for the Council.
- 14.2.13 All work for, or trade with, external bodies for profit must be conducted through a separate incorporated company which has been formally set up for the purpose.
- 14.2.14 The approval of the County Council will need to be sought to exercise a power to trade and to set up the company. It should be noted that when the company has been established it will be a separate legal entity from the Council and consideration within the business case will be required for each of the matters set out at 14.2.10 above plus such issues as:-
- the need for TUPE transfers of staff
 - the impact of the trading activities of the service, as it may no longer be possible to award work directly to the company – they may have to bid for it via a tender process and may not therefore win the work which they previously provided to the Council as an in-house service
 - pensions implications
 - premises requirements
 - taxation implications.

14.2.15 More information about charging and trading, including the preparation of a business case, can be found in the Contracts Manual.

14.3 Pricing, Charging and Accounting Issues

14.3.1 Under the 1970 Act and the 2003 Act in respect of charging for discretionary services, the Council has some discretion in terms of whether or not to charge for the services provided and how much. In the case of charging for discretionary services the Council is under a duty to secure that, taking one year with another, the income from charges does not exceed the costs of provision.

14.3.2 As a general principle, the charge for any work performed for an external organisation should cover the estimated full cost of undertaking the work. The full cost would include the direct cost of undertaking the work (e.g. based on the number of days of staff time the work is likely to take, any associated travelling expenses, printing costs etc.) and a contribution towards overheads (e.g. office expenses, management overheads, accommodation costs etc.). Any deviation from this principle must be approved by the Strategic Director, Resources.

14.3.3 Charging, accounting and monitoring arrangements should be as follows:-

- Income should be collected in accordance with the Council's Financial Regulations;
- Invoices should be rendered promptly and normally within one month of supply or in accordance with the contractual arrangements;
- The income arising from the performance of work for external organisations must be identified separately within the relevant service's accounts and it should be possible to determine associated direct expenditure;
- Appropriate arrangements should be devised to monitor resource inputs, e.g. if the contract price is based on person-days, the number of person-days actually taken should be monitored;
- For External Audit requirements it is important to be able to identify work carried out for external organisations separately in the Authority's accounts. Further guidance on accounting and monitoring should be sought from the relevant Heads of Service, Departmental Budgeting and Accounting.

14.3.4 Reporting - Strategic Directors should produce an annual report on the work carried out for external organisations for the relevant Cabinet Member, providing the information outlined in the Guidance Note to the Code of Practice on Local Authority Accounting, but without breaking the Commercial Code.

15. INVESTMENT AND BORROWING

- 15.1 The Strategic Director, Resources (represented by the Service Director - Finance and Trading) is responsible for arranging the investment of Council funds and the Pension Fund in accordance with approved Council policies.
- 15.2 The Strategic Director, Resources (represented by the Service Director - Finance and Trading) is responsible for arranging the borrowing and lending of money on the best available terms taking into account present and anticipated economic conditions and projected flow of funds.
- 15.3 The Council has accepted the CIPFA Prudential Code for Capital Finance, and the Code of Treasury Management. The Strategic Director, Resources (represented by the Service Director - Finance and Trading) must report any significant variations to the Prudential Indicators, with any necessary explanations to the Cabinet Member for Finance and Property and to Cabinet where appropriate.

16. LEGAL CLAIMS AND SETTLEMENTS

- 16.1 Strategic Directors must inform the Assistant Chief Executive of all matters where the Council might have a legal claim against a third party and of all occasions where there is a likelihood that the Council will be sued by an outside body or individual.
- 16.2 Strategic Directors must inform the Strategic Director, Resources (represented by Heads of Service, Departmental Budgeting and Accounting) where the Council's finances might be affected and the Strategic Director, Resources should be involved in any resultant negotiations.
- 16.3 The Assistant Chief Executive, in consultation with the appropriate Strategic Director and the Strategic Director, Resources, have the power to settle such claims in order to avoid litigation and/or to achieve best value for the Authority.
- 16.4 Financial settlements relating to officers defined in paragraph 2.2 of the Employment Procedure Rules (part 4 of the constitution) shall be reported to Personnel Committee or Senior Staffing Committee, if in place.

17. PROTECTING PUBLIC FUNDS AND ASSETS

- 17.1 The Council has a responsibility to protect its public funds and assets and has developed a strategy to deter fraud and corruption whether attempted on the Council from outside or from within.
- 17.2 The Council is committed to the highest possible standards of openness, probity and accountability. Part of meeting that commitment is to encourage employees and others who have serious concerns about any aspect of the Council's work to come forward and voice those concerns. To facilitate this, the Council has approved a Whistle Blowing Policy to allow these concerns to be raised in confidence and dealt with appropriately.

18. AUDIT

- 18.1 The Strategic Director, Resources is responsible for arranging the continuous independent internal audit of the Council. The Internal Audit Service will be provided in accordance with its terms of reference and the CIPFA Code of Practice for Internal Audit in Local Government in the United Kingdom (2006).
- 18.2 Internal Audit focuses on the Authority's control environment and independently appraises the internal controls present in financial and other systems. The arrangements made by Strategic Directors and/or Cabinet Members for securing the economic, efficient and effective use of resources are also reviewed. Internal Audit reports are produced containing recommendations which should be responded to formally in writing. The results of Internal Audit work contribute to the Authority's Statement on Internal Control.
- 18.3 Internal Audit staff have the right of access to such records, assets, premises and personnel, and are entitled to receive such information and explanation, as they think necessary for the proper fulfilment of their duties.
- 18.4 If an irregularity occurs or is suspected, which may involve financial loss, it must be reported immediately to the Strategic Director, Resources (represented by the Head of Service, Audit and Investments) who may investigate and report to the Assistant Chief Executive and the relevant Strategic Director. The Strategic Director, Resources and the Assistant Chief Executive will jointly determine what further action to take, in consultation with the Strategic Director.
- 18.5 The Internal Audit Service reports on relevant audit issues on a regular basis to the Authority's Audit Committee. Frequent liaison also occurs between Internal Audit and the Authority's External Auditors who rely upon the work of Internal Audit when forming their opinion on the Authority's key financial and other systems.

19 INFORMATION AND COMMUNICATIONS TECHNOLOGY (ICT)

- 19.1 The Strategic Director, Resources (represented by the Service Director – ICT) is responsible for ICT services, and for advising on all ICT equipment, software and services acquired by the Council.
- 19.2 The acquisition, development, maintenance and use of ICT equipment, services and solutions must conform with the Council’s ICT Strategy and Standards. Proposed ICT activity, which may contravene any of the ICT policies and standards, should be referred to the Strategic Director, Resources (represented by the Service Director – ICT) for prior approval. In all cases such approval must be sought using the approved ICT waiver request procedure.
- 19.3 The procurement of ICT equipment, software and services, must comply with the code laid down in section 9 of financial regulations.
- 19.4 All ICT equipment, software and facilities acquired by the Council must only be used in accordance with conditions and guidelines issued by the Strategic Director, Resources (represented by the Service Director - ICT).
- 19.5 The development of new networked systems, or major enhancements to existing systems, should first be agreed with the Strategic Director, Resources (represented by the Service Director - ICT), whether or not the services of the IT Division will be used.
- 19.6 Projects must demonstrate that Best Value will be achieved through the application of ICT. Evidence of the justification, expected benefits and value-for-money should accompany each request for approval. The level of supporting documentation to be submitted is given below:-

Project Value	Supporting Documentation
Up to £10,000	Reasoned justification and expected timescales.
£10,001 up to £50,000	Above plus options appraisal and full Life-cycle costing
£50,001 up to £100,000	Options appraisal, Risk assessment, full Cost-benefit appraisal + PID
Over £100,000	Full PRINCE2 business case

- 19.7 Formal approval must be obtained for all proposed projects and purchases before expenditure is committed. Approval should be sought as follows:-

Project Value	Approval Required
Up to £50,000	Service Director - ICT
Over £50,000	ICT Strategy Board

Projects presented to the ICT Strategy Board must follow the approved ICT governance arrangements and supporting procedures.

- 19.8 Maintenance, upgrade and replacement of central hardware, software and networks are the responsibility of the Strategic Director, Resources (represented by the Service Director - ICT) and will be undertaken in accordance with ICT standards and governance arrangements.
- 19.9 Where Departmental hardware, software, or networks need to be replaced or upgraded, Strategic Directors must consult the Service Director - ICT regarding the requirements and specifications before proceeding.
- 19.10 Where ICT equipment becomes surplus to requirements, it should be disposed of using the ICT disposal procedures. Data storage media, e.g. disks and tapes, should be disposed of in accordance with the procedures for disposal of storage media.

IT Security Policy

- 19.11 The Strategic Director, Resources (represented by the Service Director - ICT) and, where appropriate, the Assistant Chief Executive, and the relevant Strategic Director, are responsible for maintaining proper security and privacy of data in accordance with current legislation e.g. Data Protection Act, Computer Misuse Act, Freedom of Information Act.
- 19.12 All users of the Council's ICT systems must comply with published ICT standards and codes of practice , including:-
- a) the Council's Information Security Policy which is approved by Council, and
 - b) the Information Security Standards which are published and maintained by the Strategic Director, Resources (represented by the Service Director - ICT). The Information Security Standards incorporate guidance on legal requirements such as the Computer Misuse Act and the Data Protection Act, and on codes of best practice such as the International Standard on Information Security Management (ISO 17799).
 - c) the internet policy and internet code of practice
 - d) the email policy and email code of practice
- 19.13 Compliance with the key principles outlined in the ICT Security Policies and Framework is mandatory, including the following:-
- a) employees must access only those ICT systems and data in the prescribed manner, to which they have been granted authorisation.
 - b) passwords relating to a personal user identity must never be divulged to another person.
 - c) attempts to obtain unauthorised access to an ICT system may constitute a criminal offence punishable by a fine or imprisonment or both.
 - d) unauthorised copying of software is forbidden and may contravene the Copyright Act.

- e) use of the Internet can incur potentially serious security risks, and all guidance must be strictly observed.
- f) the use of personal data relating to a living individual is regulated by the Data Protection Act, contravention of which may lead to criminal prosecution.

19.14 Employees must report all suspected breaches of ICT security to the Service Director - ICT, (represented by the ICT Security Manager).

20. LAND AND BUILDINGS

20.1 INTRODUCTION

- 20.1.1 The Strategic Director, Resources (represented by the Service Director - Property) in consultation with the Cabinet Member for Finance and Property is responsible for the acquisition and disposal of land and buildings. Where the proposed acquisition of land and buildings falls outside the capital programme, such acquisition may proceed only after the additional resources required have been considered by the Cabinet Member for Finance and Property and approved by the Cabinet.
- 20.1.2 The Strategic Director, Resources (represented by the Service Director - Property) must maintain the Corporate Asset Register for all land and buildings owned by the Council and a separate record of all leased property. If acquisition is by means of a lease of 10 years or more, then the best value implications of entering into the lease must be considered.
- 20.1.3 Details of all transfers of land and buildings must be notified to the Strategic Director, Resources (represented by the Service Director - Finance and Trading) in order that the transactions may be properly recorded in the financial records.

20.2 GENERAL

- 20.2.1 Members and officers of the Council who have a personal or prejudicial* interest in the acquisition or disposal of any Council land or buildings must ensure they comply, as appropriate, with the Code of Conduct for Members or Code of Conduct for Officers set out in part 5 of the Constitution and shall not be supplied with or given access to any tender documents, contracts or other information relating thereto without the authority of the Assistant Chief Executive (* prejudicial has the same meaning here as in the 'Members Code of Conduct' which is set out in the Constitution).

20.3 DISPOSAL

- 20.3.1 When disposing of its land the Council is required to obtain the best price reasonably obtainable on the open market. Every effort must therefore be made to maximise the consideration realised by the Council on the disposal of land and buildings, including any claw-back, as appropriate. These efforts will include contacting major national and local purchasers and a list of such land purchasers will be maintained by the Service Director - Property. A suitable advertisement inviting interested parties to add their names to the list will be placed annually.
- 20.3.2 Where the Council provides public sector support to a third party in connection with any property transaction or project involving property, this could trigger the State Aid rules (see para 3.3.5). In such circumstances the guidance set out in the 'European Commission statement on State Aid elements in sales of land and buildings by public authorities' must be taken into account when disposing of land and buildings. Further advice should be sought from Legal Services.

Disposal must be by one of the methods outlined at 20.3.3 to 20.3.7 below:-

20.3.3 Open Binding Tender

20.3.3.1 At least 28 days before the last date for the receipt of tenders, an initial public notice must be placed in one or more of the local newspapers and, dependent on the nature of the land or buildings to be sold, in national newspapers and in such other publications as the Service Director - Property considers desirable. The notice must describe the land to be sold, invite requests for tender documents and state the date and time by which tenders are to be returned.

20.3.3.2 The form of tender will be settled by the Service Director - Property after consultation with the Assistant Chief Executive and must be capable of acceptance as a binding contract.

20.3.3.3 The Service Director - Property, in consultation with the Cabinet Member for Finance and Property, will evaluate tenders and determine which, if any, is to be accepted.

20.3.4 Limited Binding Tender

20.3.4.1 At least 28 days before the last date for the receipt of tenders, selected tenderers will be issued with the appropriate form of tender.

20.3.4.2 The form of tender will be settled by the Service Director - Property after consultation with the Assistant Chief Executive and must be capable of acceptance as a binding contract.

20.3.4.3 The Service Director - Property, in consultation with the Cabinet Member for Finance and Property, will evaluate tenders and determine which, if any, is to be accepted.

20.3.5 Public Auction

20.3.5.1 The Service Director - Property, in consultation with the Cabinet Member for Finance and Property, will decide which auctioneers are to be used. The contract and conditions of sale should be prepared by the Assistant Chief Executive. Any reserve price will be agreed by the Service Director - Property, in consultation with the Cabinet Member for Finance and Property and with the chosen auctioneers.

20.3.6 Private Treaty Sale to One Party

20.3.6.1 Where only one party is interested or is to be invited to submit a signed contract, the Service Director - Property, in consultation with the Cabinet Member for Finance and Property, shall take a decision after discussing the circumstances with the Assistant Chief Executive and the Strategic Director, Resources (represented by the Service Director - Finance and Trading).

20.3.7 Open Informal Tender

20.3.7.1 The Service Director - Property, in consultation with the Cabinet Member for Finance and Property, will make arrangements in appropriate cases for properties to be sold by Open Informal Tender which must be preceded by public advert as in para 20.3.3.1 subject to appropriate time limits.

20.4 TENDERS

20.4.1 The invitation, receipt, opening and evaluation of tenders should be conducted in accordance with section 9, Procurement of Goods, Services and Works and the Contracts Manual.

20.4.2 The Service Director - Property will make available to the Assistant Chief Executive and the Strategic Director, Resources on request a copy of the register of accepted tenders, maintained in accordance with section 9, Procurement of Goods, Services and Works and the Contracts Manual.

20.4.3 All parties submitting unsuccessful tenders must be notified promptly of the outcome to their offer.

20.5 COMPLETION OF SALE

20.5.1 Once a sale has been agreed a reasonable period (not exceeding six months) will be allowed for the completion, except where a longer period is agreed during the original negotiations. If completion has not taken place by the end of the agreed period the Service Director - Property should make a report to the Cabinet Member for Finance and Property, recommending that either:-

- a) the period for completion be extended; or
- b) sale proceedings should be started afresh.

20.5.2 The Assistant Chief Executive must be advised of all decisions to extend the completion date or to begin the sale proceedings afresh, so that they can inform all interested parties of the decision.

20.6 CANCELLATION

20.6.1 Every contract for the disposal of land or property must include a clause to allow the Council to cancel the contract with the purchaser and to recover from them the amount of any loss resulting from the cancellation if:-

20.6.1.1 The person, firm or company has offered or given or agreed to give to any person a gift or consideration of any kind as an inducement or reward:-

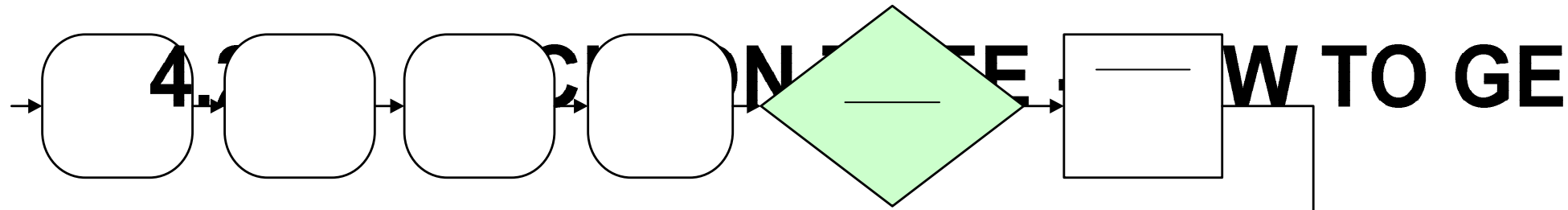
- a) for doing or refraining from doing or for having done or refrained from doing any action in relation to the contract or any other contract with the Council; **or**
- b) for showing or not showing favour or disfavour to any person in relation to the contract or any other contract with the Council; **or**

- c) such acts having been done by any person employed by them or acting on their behalf (whether with or without the knowledge of the purchaser).

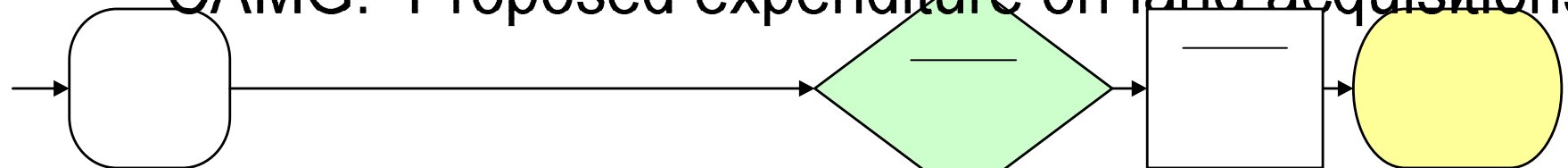
20.6.1.2 In relation to any contract with the Council the person, firm or company or any person employed by them or acting on their behalf shall have committed any offence under the Prevention of Corruption Acts 1889 to 1916, or any amendment of them, or shall have given any fee or reward the receipt of which is an offence under section 117 of the Local Government Act 1972.

20.7 SCHEME OF DELEGATION FOR LAND TRANSACTIONS

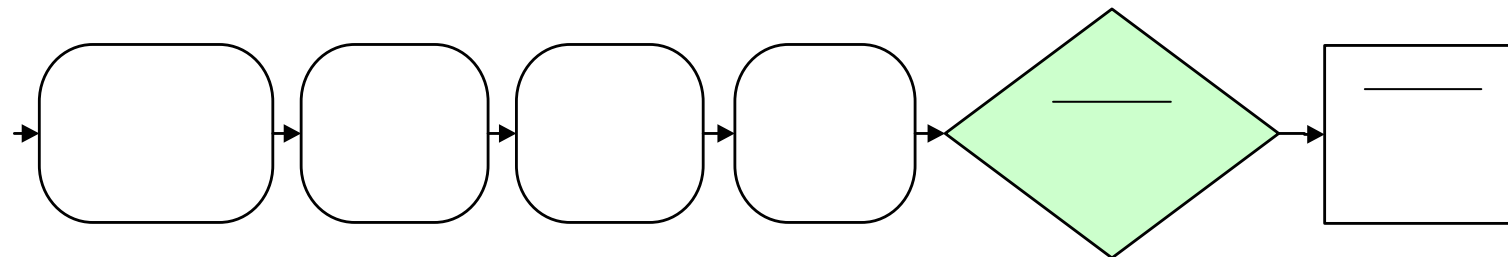
20.7.1 The scheme of delegation for property transactions is set out in part 3, section 9.13 of the Constitution.



All capital expenditure requires approval by the relevant CAMG. Proposed expenditure on land acquisitions and



a. At the beginning of a Financial Year - The



Options

**Appraisal Report
to CAMG**

**Member
Reference
Group**

